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ABSTRACT

The purpose of this study was to explore the role of unions in the Public Employment Program (PEP). The study focuses on the nature and extent of union involvement in PEP projects and the effects of such involvement in the implementation of the projects. Eight PEP projects were examined to determine the role and impact of unions and collective bargaining on the design and early implementation of each project. No standard pattern of union concern and action emerged. Most often, unions were concerned with possible preferential treatment being given to PEP participants at the expense of regular employees. Unions utilized a variety of mechanisms to pursue their views in PEP projects, including negotiations, grievance procedures, litigation, and management influence. Although unions reaised questions and made suggestions in most of the cases studied in this research, they did not have a significant impact in the first year of these PEP projects. The experience with PEP provides policy considerations for the future of this or other manpower programs involving the public sector. Policy implications are offered for the legislation authorizing such manpower programs and their administrative implementation. Two options for further research are offered to expand and validate the findings of this study. (MF)

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The Impact of Employee Unions on the Public Employment Program

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ABSTRACT

The purpose of this study is to explore the role of unions in the Public Employment Program (PEP). The study focuses on the nature and extent of union involvement in PEP projects and the effects of such involvement on the implementation of the Public Employment Program. The results of the study provide a basis for assessing the need for a more comprehensive follow-up study of this subject.

Eight PEP projects were examined to determine the role and impact of unions and collective bargaining on the design and early implementation of each project.

Unions were involved in the Public Employment Program from the outset when authorizing legislation was passed in Congress. At that time, a major public employee union as well as the AFL-CIO lobbied in Congress. Although unions generally favored PEP, they sought legislative protection of the interests of their members and organizations.

Union involvement became more active in the implementation of individual PEP projects, but no standard pattern of union concern and action emerged. Most often, unions were concerned with possible preferential treatment being given to PEP participants at the expense of regular employees. Such possibilities arose if the unions felt that: 1) PEP hires were substituting for regular workers; 2) PEP jobs at above-entry levels deprived regular workers of promotion opportunities; 3) normal hiring standards were waived for PEP participants; or 4) PEP workers remained working while regular employees were laid off for lack of work. Unions were also concerned with proper notification of project funding applications so that they would have the opportunity to comment and influence the project design. In several instances union involvement facilitated program implementation.

Unions utilized a variety of mechanisms to pursue their views in PEP projects. Among the methods were formal negotiations, informal consultation, grievance procedures, strike threats, litigation, and influence from higher levels of the union and from federal administrators.

Affecting the extent and the manner of union involvement in PEP projects were the local environment and the role of regional offices of the Manpower Administration. The local environment was conditioned by the financial situation of the political jurisdiction, political considerations,

prior experience with manpower programs, and the degree of union organization and bargaining history. The tenor of union-management relations affected the process and substance of resolving problems raised in connection with the PEP program. Regional offices exhibited various degrees of understanding to public employee unions, collective bargaining agreements and labor-management relations.

Although unions raised questions and suggestions in most of the cases studied in this research, they did not, in toto, have a significant impact in the first year of these PEP projects. Nor did the introduction of PEP appear to alter fundamentally the power bases on issues of labor-management relations.

The experience with PEP provides policy considerations for the future of this or other manpower programs involving the public sector. Policy implications are offered for the legislation authorizing such manpower programs and their administrative implementation.

This research study is limited by the time perspective and the method of selecting the case studies. As the PEP program develops, changes, or terminates, the kinds of problems raised by unions and the impact of unions on the program are likely to change. Two options for further research are designed to expand and validate the findings of this pilot study.

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INTRODUCTION

The Public Employment Program (PEP) created under the Emergency Employment Act of 1971 marked a major turning point in federal manpower programs in the United States. It provided substantial funds to state and local governments to offer transitional employment opportunities to large numbers of the unemployed while simultaneously meeting unmet public needs.

Within the last decade union organization of public employees has increased at a rapid rate. Collective bargaining has developed between employee organizations and public employers. Principles and procedures similar to private sector bargaining can be found in many public sector areas, though significant differences exist.

The PEP program introduced a new ingredient into emerging bargaining situations in the public sector by posing novel questions of union participation and impact. Yet little thought or interest has been given to the interrelationship of the PEP program and collective bargaining. Both the authorizing legislation and the Program Guidelines of the Emergency Employment Act devote little attention to the presence of unions and collective bargaining arrangements. Early evaluations of the program have, for the most part, largely ignored the possible impact of unions on project implementation and the existence of the manpower program on labor-management relations.[1]

This research project has been designed to give a preliminary assessment of the role and impact of unions on the substantive and procedural development of the Public Employment Program.

The opening section of the report establishes the purposes and the design of the study. The following section presents the analysis of the research. The conclusion contains a summary of findings, policy implications and options for future research. In the Appendix are reports of eight case studies of union involvement in PEP projects.

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1. See, for instance, Sar A. Levitan and Robert Taggart, The Emergency Employment Act: An Interim Assessment (Washington, D.C., U.S. Government Printing Office, 1972).

Purpose of the Study

The purpose of this pilot study is to assess the types and the extent of union involvement in the Public Employment Program and to determine if further research of this area would be desirable. It was clear from the beginning of this exploratory research that different sets of unions and program agents struck different postures in implementing PEP projects, but it was not evident what accounted for these variations. This study therefore isolates and analyzes some of the variables that explain the initiation of union involvement in the PEP program, the types of issues in which unions participated, the methods used by the parties involved to handle matters connected with the PEP program, the types of issues in which unions participated, the methods used by the parties involved to handle matters connected with the PEP program, and the variety of outcomes. Although the study focuses attention on PEP's first year, it also forecasts problems that may emerge in the future.

The purpose and scope of this study precluded the formal testing of hypotheses. The researchers were interested, however, in obtaining answers to specific questions.

1. What factors in the environment surrounding PEP projects affected union reaction to the design and implementation of such projects? For instance, did the bargaining history of the unions and municipality influence their respective reactions to PEP? Did racial undercurrents affect either party's general response to PEP?
2. In which substantive areas of the PEP project did unions attempt to become involved? If the area was one of union concern, how did the issue arise, and what was the effect of union involvement? Under what circumstances, if any, did unions provide assistance in implementing PEP projects?
3. How did unions communicate their interests? To what extent were collective bargaining mechanisms employed?
4. Did PEP guidelines and Department of Labor representatives influence the response of unions and cities to the program and affect union-management relationships?

5. Did the implementation of PEP projects require the modification or suspension of collective bargaining contract provisions? If so, were there differences between cities or unions in this respect?
6. What was the over-all impact of union involvement on the PEP projects included in this study?
7. Did the program affect the collective bargaining process or the balance of power between the parties?
8. What future labor-management problems can be anticipated in the operation of the PEP program?
9. What are the policy implications of this study for PEP and other manpower programs focusing on the public sector?

Design of the Study

To meet the exploratory nature of this pilot undertaking, case studies were chosen as the primary methodology. On the basis of secondary sources, the researchers originally chose to study eight municipalities. The national office of the Public Employment Program suggested changes in the original list based on their judgment of the extent of union involvement and union impact in the implementation of PEP projects. The eight projects were thus purposefully selected to provide a mix of situations, ranging from two situations where union involvement resulted in litigation to a situation where public employee unions were not known to have had any involvement in the PEP project. There was no attempt or intent to select a representative sample of PEP projects.

The original research design was in-depth field interviews in each of the eight projects with appropriate union, city and Regional Manpower representatives. Because the Cleveland and Dayton projects were in litigation, the Department of Labor would not permit the researchers to conduct field interviews in these areas. The Cleveland and Dayton studies have therefore been compiled solely from secondary sources, while field research was conducted in the other six projects. The research for the case studies was completed in October 1972.

Besides conducting field interviews, the researchers sought out and analyzed secondary sources, including PEP contracts and their modifications, collective bargaining agreements, correspondence of unions and administrators involving the PEP project, and newspaper accounts. The object in each of the case reports was to develop a chronology of union awareness and involvement in the PEP program, the perceptions of the parties as far as the PEP program was concerned, and an analysis to account for the behavior of the parties in a particular situation.

In addition to the case studies and appropriate secondary sources relevant to each case, available printed copies of various Congressional hearings dealing with Emergency Employment Act legislation were analyzed. Moreover, a number of reports, court cases, and arbitration awards were evaluated. The gist of this material is included in the following analysis.

ANALYSIS

Environment Affecting PEP Projects

A number of factors beyond the boundaries of the PEP program have affected the implementation of the projects and the reactions of unions to individual projects. Four factors have been singled out for attention because of their clear impact: the financial condition of the city, political considerations, experience with other manpower or social action programs, and the degree of employee organization and previous bargaining with the city.

Financial Conditions. The introduction of the PEP program in late summer 1971 was providential because many cities were suffering from a lack of adequate financial resources. PEP represented a means of stretching available funds to provide needed public services.

The degree of financial pressures varied from city to city. In some cases, such as Wilmington, a job freeze had been instituted as an economy measure. In others, such as Dayton, Detroit and Cleveland, layoffs were already in effect at the time that PEP funds became available and additional layoffs appeared likely. In all these cases, unions were concerned with making PEP employment available to laid-off workers rather than to workers with no previous public experience. Indeed, the city sometimes shared this concern, both in the interests of union harmony and of retaining experienced workers.

Occasionally one finds a city whose financial situation differs markedly from the generally grim picture. Atlanta was such a city, and the reaction of city officials in Atlanta to PEP was partly a result of the city's relative affluence. The city was somewhat indifferent to the project; the extra funds were welcome but not essential. Nor were the employment opportunities afforded by the PEP project crucial to the unions in Atlanta.

Political Considerations. Politics is an inevitable ingredient in public administration and public sector labor relations. It also played a role in the environment surrounding the implementation of PEP projects.

In Cleveland, a change in administrations affected the kinds of jobs available and the particular persons whom the city wished to employ. Consequently, with the introduction of PEP, the argument was rekindled over the nature of the jobs and the persons who would fill those jobs. Had it not been for political considerations, PEP might have been spared from being embroiled in a lengthy labor-management dispute.

Internal political differences also affected PEP and union responses to PEP. In Wilmington a Republican mayor had to face a Democratic city council. When differences emerged between the city administration and the unions over PEP details, the unions found allies in city council.

Political differences are not always a matter of party differences; they may be expressed in philosophical or personal terms. The opportunities for exploiting differences remain the same. One of the main problems facing the Philadelphia project turned on political squabbles between the mayor and the president of the school board. In Atlanta, too, the mayor and the Board of Aldermen were of the same political party but could act independently of each other, as in the case of the PEP project.

Politics may also be a factor in union-management relations. In both Detroit and Philadelphia, the political influence of public employee unions was an important ingredient in local politics. It thus undoubtedly affected city actions in connection with the PEP projects.

Experience with Manpower or Social Action Programs. Although PEP was innovative in providing large sums of relatively unrestricted moneys to state and local governments to help them meet their public service needs, it was not the first time that state and local government units had received federal funds for manpower objectives. Both cities and unions had learned to appreciate the kinds of problems they could encounter from special manpower projects. Even though the purposes and circumstances of PEP were different from prior programs, the lessons learned from those experiences were likely to condition the parties' reactions to PEP. They therefore were prepared to anticipate some of the problems in PEP and to deal with them accordingly.

In Atlanta, for instance, the Atlanta Beautification Corps (ABC) project had encountered problems in shifting workers from temporary to permanent employment. The racial overtones in the controversy exacerbated the problem. The experience left city political leaders reluctant to undertake additional projects which would face similar problems.

More pertinent to the theme of this study is the Wilmington experience with Public Service Careers (PSC). The American Federation of State, County and Municipal Employees (AFSCME) contended that the city was providing above entry-level jobs for PSC participants while depriving regular city workers of an opportunity to upgrade themselves. Indeed, the issues raised in the PSC controversy and their resolution played a significant role in the later negotiations on PEP problems in Wilmington.

Degree of Organization and Bargaining History. Because of the selection of the case studies for this pilot investigation, all eight cities have employees who have been organized. At least three major groups are represented: police, firemen, and some other city employees. The last category may include significant portions of, if not the entire, non-uniformed workforce of the city. The portion which is organized may be represented by one or more employee organizations.

Organization and representation may vary considerably in strength; so, too, may the relationships between the organizations and the municipal employer. Included in the case studies are examples where the employees are extensively organized, where collective bargaining is an accepted fact, and where the relationships between the unions and the employers are generally based on at least mutual respect. Philadelphia and Detroit are cases in point.

At the other end of the spectrum is Atlanta, a situation where the unions are not well organized and where collective bargaining has not become established. The weakness of unions and the ability with which the city has dealt with them in other areas limited the unions' ability to affect the PEP project.

The remaining cities fall in between the two above positions, though they tend to be closer to the Philadelphia/Detroit end than to the Atlanta end. In most cases the unions were well organized and in all cases they engaged regularly in bargaining. But because of political weakness, personality conflicts, or philosophical differences with the city, their relationships with the city ranged from cool to hostile.

These differences become important when one investigates the various steps that all PEP projects went through. Many of the same problems arose in a number of cities, but the manner in which they were handled and the resolution of the problems were strongly affected by the strength of the union and the nature of union-city relations.

Role of Regional Manpower Administrators

Before comments are made about the role of regional offices of the Manpower Administration in union-management differences involving the PEP program, recognition must be given to the program pressures under which regional personnel were operating. To begin with, PEP was a "rush" project. The time between passage of the legislation and distribution of funds was minimal. The regional offices had a central role in interpreting PEP guidelines, soliciting and assisting in preparing funding applications, and approving those applications. A fundamental objective of each regional office was to get the program under way. In this atmosphere, with pressure from above and publicity from the outside, any impediment to the program's fundamental objective may easily have been perceived as an undesirable hindrance.

Secondly, the operating procedures of the regional offices underwent a rapid change. Both regional offices and program agents at first thought they would have longer to submit applications for full funding than actually was the case. Changing schedules aggravated the problems of starting many projects at the same time and of resolving differences with unions.

Neither of these reasons fully explain some of the attitudes and positions adopted by regional offices, which will be examined in greater detail below. But they contributed to the pressure and uncertainty which marked the beginning of the PEP program and would have affected even those most sensitive to potential union-management problems in PEP.

The regional office representatives exhibited a number of different attitudes to unions and collective bargaining and adopted different roles in union-management disputes.

Interviewers found that personnel in two regional offices either knew little about unionism in the public sector or revealed decidedly anti-union sentiments. Ignorance and misinformation about public employee unions and collective bargaining limit both sensitivity to problems that may arise in the course of manpower programs in the public sector and ability to deal with such problems. Actions of these regional office personnel with respect to particular programs reflected these deficiencies.

A second type of attitude discovered in regional offices was awareness of public employee unions and of collective bargaining in general but only peripheral knowledge of particular union-management problems of a PEP project and an unwillingness to get involved in those problems. In at least one case, the problem was central to the future operations of a particular PEP project. The regional office, however, was unaware of the problem or how it was being resolved until long after the resolution. By then, it was too late to affect the matter one way or the other. Reasons for such noninvolvement may be eagerness to let the parties work out their own fate, faith in the abilities of one or both of the parties, reluctance to get embroiled in confrontation, or recognition of factors beyond the influence of the regional office that may determine the outcome of the problem. In such instances, however, the regional office abdicates responsibility for interpreting the program and auditing the progress of the project.

A third position adopted by regional office personnel in dealing with projects was a willingness to offer suggestions to resolve disputes between project agents and unions representing employees of the agent but a reluctance to stand by the suggestion or compromise if one side or the other failed to comply by the terms of the suggestion. Such was the case in both the Wilmington and the Lansing projects. In the former instance, the union would not accept the suggested compromise, while in the latter, the city temporarily reneged on the solution which had been tentatively accepted at the urging of federal representatives. More forceful regional office action in these cases may have averted some of the later ill feelings between the parties. On the other hand, it may have resulted in a showdown of the type described below.

A final stand adopted by regional office personnel in several of the cases studied was a "hard line" attitude with respect to the manner in which a problem should be handled. The reason for taking such a stand was potential disruption of PEP guidelines, as regional office personnel understood them. In Dayton and Cleveland, these stands buttressed the cities' positions and led the unions to take their case into court. The fire fighter problem in Louisville was appealed to higher authorities in the union and the PEP administration. In the eight case studies, these were the only instances were regional representatives adopted "hard line" positions in union-management differences. It could be that similar positions taken elsewhere forced one party or the other to back down and accept the regional office solution to a problem.

The differences in regional office reactions to labor-management difficulties seems to have been more the result of happenstance and personal reactions than of conscious design. They did not result from design and established broad policy with respect to unions and labor-management problems of PEP projects. The case-by-case approach to resolving problems coupled with conflicting perceptions of program priorities resulted inevitably in a variety of reactions.

The response of a regional office (and the national PEP office) to a union challenge in the PEP program also reveals the attitudes of federal administrators to unions, collective bargaining, and collective bargaining agreements. As long as federal administrators feel that manpower program guidelines take priority over local collective bargaining contracts, conflict between the parties who have negotiated those contracts is possible, if not inevitable.

Areas of Union Involvement

Unions became interested in and affected the PEP program at various points. This discussion of the areas of union involvement will take up each topic separately, though a particular union often was engaged simultaneously with several areas in a given project. The first two areas to be discussed, the authorizing legislation and the notification of unions about project details, occurred in time sequence. The remaining areas of union response may have occurred at the outset of a project or at some later time.

EEA Authorizing Legislation. The Emergency Employment Act of 1971 was the product of lengthy hearings and subject to a number of reviews in the first half year. Yet, the impact of unions on terms of the structure and intent of the legislation appears minimal. A survey of some of the hearings on EEA reveals that only the American Federation of State, County and Municipal Employees and the AFL-CIO appeared personally before Congress.[2] While the former expressed a number of concerns, the only visible evidence of union lobbying may be found in provisions allowing unions to comment on grant applications, protecting currently employed workers, and upholding "existing contracts for services." These provisions reflect a minimum of union impact on the authorizing legislation. The administrative interpretation of these provisions further reduced the role of the unions in implementing the statute.

Notification of Unions. Although unions were not spectacularly effective in incorporating their objectives in the EEA legislation, one provision to protect the unions' interests was provided in the Program Guideline:

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2. U.S. Senate, Committee on Labor and Public Welfare, Subcommittee on Employment, Manpower and Poverty, 92nd Congress, First Session, Hearings on S.31, "Emergency Employment Act of 1971," February 1971.

U.S. Senate, Subcommittee of the Committee on Appropriations, 92nd Congress, Second Session, "Departments of Labor and Health, Education, and Welfare, and Related Agencies Appropriations for Fiscal Year 1973," H.R. 15417, Part 2, pp. 1535-1565.

U.S. House of Representatives, Subcommittee on the Committee on Appropriations, 92nd Congress, Second Session, "Departments of Labor and Health, Education and Welfare Appropriations for 1973," Part 6, pp. 17-20, 50-54, 195-227.

U.S. House of Representatives, Committee on Education and Labor, Subcommittee on Labor, 92nd Congress, Second Session, "Hearings on Public Service Employment: Revisions of H.R. 11167 (Employment and Manpower Act of 1972) and H.R. 11413 (Comprehensive Manpower Act)," unprinted.

> Program Agents must also provide an opportunity for comment 15 days before submitting their applications to labor unions representing employees who are engaged in similar work in the same area as that proposed...This opportunity to comment does not apply to a Program Agent's Application for Full Funding.[3]

This provision, its application, and its interpretation not only proved to be problems themselves but also led to other problems.

Some of these problems may have been an unintentional consequence of hurried implementation of the PEP program. Confusion was common as to who needed to be notified, when responses were due, and to whom these replies should be sent. The change in schedule of full funding applications, previously noted, complicated notification procedures. Procedures for notification and requests for reactions differed among the program agents studied. A more orderly process of notification with sufficient lead-time to enable everyone to understand the process would undoubtedly reduce the problems and misconceptions that occurred in fall 1971.

Another aspect of this problem, however, resulted from deliberate actions of program agents. In Louisville, for instance, the fire fighters were not notified of informal meetings that the city held with other unions about the forthcoming application for PEP funds, nor did the union receive a copy of the proposal. The largest union in Wilmington claimed that it did not receive formal notification of plans until it found out about the proposal from the press. Perhaps the most far-reaching outcome of a notification problem was the court case filed by the Illinois State Employees Union against the State of Illinois in U.S. District Court.[4] The court ruled that a union is entitled to notification and information about the details of a proposed PEP project, but the approval of the union is not a requisite for the federal government to approve the proposal.

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[3] U.S. Department of Labor, Manpower Administration, Emergency Employment Act Program Guidelines, August 27, 1972, XII.B.

[4] The Illinois project was not among the eight cases included in this research study. A fuller report of the court case and its circumstances may be found in the case study by Roger Bezdek in Sar. A. Levitan and Robert Taggart, op.cit.

Regional offices also were part of the notification problem. Indeed, the union in Lansing did not even get acknowledgement from the regional office that its comments had been received late and hence ignored for over half a year, yet the contents of those comments were the basis of the union's continuing objections to the design of the PEP project in that city.

The Lansing and Illinois examples provide the real nub of the notification issue. Whatever the formal rules and their interpretation by any source, unions representing employees will want to know the details of a manpower project in their area and its effects on represented employees. If possible adverse effects are discovered, the union will inevitably raise objections. If changes in the proposed project can meet union and project objectives, the union may make suggestions to restructure the design and/or operation of the project. To decide that the union's comments have been raised belatedly or that they can be ignored for other reasons will not change the union's opinions, especially if they have been raised seriously and in good faith. To dismiss them administratively may enable a particular manpower project to proceed forthwith, but it affects labor-management relations and may have more serious long-run consequences for manpower projects.

Several instances can be cited in the cases studied where notification was not a problem. In these instances, the program agent notified the affected unions early in the process before notification was required. The agent even proceeded to iron out potential issues informally prior to submitting their applications for full funding. Not surprisingly, Detroit and Philadelphia, two cities with well established union relations, engaged in this practice. So, too, did Louisville with the notable exception of the fire fighters. In each case the consultive process gained union cooperation in the PEP project and prevented problems later.

Preferential Treatment. One theme that runs through the succeeding fears and expressed complaints of unions is that PEP participants would receive preferential treatment in relation to regular city employees. The unions felt that they had established certain rights and conditions for their members. A new program replete with unknown factors and supported with considerable outside funds posed an unknown quantity and constituted a threat to the status quo. Workers hired under such a program could have unusual advantages in the hiring process, in promotions, or in layoff situations -- advantages that were contrary to the law and collective bargaining agreements as the unions interpreted them. The unions could not always pinpoint their fears in specific areas; from the first days of PEP projects, however, the unions conveyed a general concern about PEP workers receiving preferential treatment over regular city employees. In many cases, later developments brought to light particular problems and substantiated the unions' fears.

Maintenance of Effort. Availability of federal funds to subsidize public employment could lead to the substitution of federal funds for local funds, and hence the substitution of temporary subsidized employment for regular permanent employment. The administrators of the Emergency Employment Act anticipated the possibility and hoped to forestall it by specific prohibitions listed in Section IX.G of the Program Guidelines.

Despite the prohibitions, unions charged that certain projects were violating the letter as well as the spirit of the legislation by including jobs which had been covered by regular local funds. In Louisville, for instance, the fire fighters contended that PEP funds were being used to fill arson squad positions which were regularly budgeted jobs, a violation of the announced guidelines. The union's stance seems to have made the city reluctant to include similar kinds of jobs in the future. The Wilmington fire fighters also charged that the fire department jobs in the PEP project were essentially a violation of maintenance-of-effort regulations. A job freeze at the inception of a PEP project is likely to arouse suspicions about possible substitution of PEP jobs for regular positions; this, too, occurred in Wilmington.

The existence of laid-off employees at the time of a PEP project may cast the maintenance-of-effort problem in a different light. The Cleveland court case regarding the number of liad-off employees that could be rehired under PEP funds is in part a dispute over maintenance-of-effort requirements. In this case, however, it was the unions who attacked the interpretation of existing guidelines and the Department of Labor who defended restricting the percentage of callbacks. In this situation, the maintenance-of-effort requirements and the existing collective bargaining agreements were in conflict.

Entry-Level Jobs. The level of grades for jobs included in PEP project proposals was an issue in most of the projects included in this study. This issue contains a number of questions related to the rights of current regular employees and employees on layoff, as well as hiring standards to be applied to PEP participants. It is not difficult to understand why program agents would wish to include higher-rated, higher-paid jobs in PEP projects, nor why unions would be concerned about the creation of desirable jobs for which their members would be ineligible. The principal difference among the projects was the timing and the manner of resolving the problem when it was raised by a union representative.

In a number of cases, the question was resolved informally prior to formal submission of applications for funding. Detroit, Louisville (other than with the fire fighters), and Philadelphia listened to union objections to some of the original positions considered for PEP projects and decided to restrict PEP jobs primarily to entry-level positions. (Detroit did not remove all jobs above the entry level from the PEP project, but it pacified the union by moving union-represented personnel into new above entry-level positions similar to those slated for the PEP project.) In all of these cases, program agents acceded to the unions' position and thereby avoided repercussions. Atlanta avoided the potential problem by unilaterally limiting PEP jobs to entry-grade levels.

Program Agents who insisted on retaining their originally designated jobs met strong union reactions. The line of attack was two-fold: eliminate above entry-level jobs from PEP projects, or permit regular employees to bid on above entry-level jobs. As mentioned, the Louisville fire fighters were unable to prevent PEP participants from filling the arson squad positions, but they did create enough controversy to restrict reoccurrences of such positions from being included in PEP projects. In Wilmington and Lansing the effect was more immediate, though the unions followed the second line of attack. In Wilmington, union pressure resulted in regular city workers being permitted to bid for above entry-level jobs designated for the PEP project; if the bid was successful, the job was removed from the PEP project and the entry-level job that opened was included in the project.

The Lansing situation seems to have been largely decided by precedent of a Rome, New York arbitration.[5] This arbitration centered around the issue of the significance of a collective bargaining agreement in light of the provisions of the Emergency Employment Act of 1971. The city argued that it could properly include above entry-level jobs in its PEP project without regard to posting and bidding provisions of the collective bargaining agreement because the jobs were transitional, because neither the jobs nor the employees hired under PEP were covered by the collective bargaining agreement, and because the regulations of the PEP program were pre-emptive. The arbitrator upheld the union's grievance that the collective bargaining provisions had been violated. This arbitration decision was also used to bolster the union's case in Cleveland where the issue was whether or not a portion of the PEP funds could be limited for use in hiring new employees while other employees were on layoff.

Hiring Standards. The issue of hiring standards took essentially two forms. One was the waiver of normal criteria to permit PEP participants to work on jobs which they could not qualify for under regular circumstances.

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[5] City of Rome, New York and Local 1088, County and Municipal Council 66, AFSCME, AFL-CIO, Irving R. Markowitz, arbitrator, Jan. 31, 1972.

The other form was the addition to normal criteria because of restrictions posed by the PEP guidelines.

Employee organizations raised objections in several instances where normal screening devices were bypassed for PEP workers. In most of the cases noted, these jobs were in public safety. The Louisville fire fighters protested the use of civilians for arson squad positions because the civilians did not meet the regular hiring and promotion standards of the department. The Wilmington fire fighters also protested when the city did not give PEP workers the usual tests. In this instance, as well as the Lansing police case, the program agent was able to squelch the problem without modifying its position.

The problem of differing hiring standards may be avoided if regular standards and screening devices are applied to PEP workers. That is the tactic Atlanta used in requiring PEP hires to pass regular civil service procedures. The approach may run into problems with the Department of Labor if the result is restrictive hiring practices.

In some instances PEP standards proved to be more restrictive than the usual hiring requirements of the program agent. This kind of difficulty usually entailed residency requirements of the PEP guidelines, applied either to the program agent's jurisdiction for Section 5 grants or to the designated areas for Section 6 grants. In two cases, the restrictive conditions were waived. In Cleveland, the city was permitted to recall laid-off police who lived outside of city limits, thereby enabling the union to protect employment for its members. Dayton was also given permission to hire PEP workers from the entire city, not just from the designated Section 6 areas. The public safety organization felt that not enough qualified personnel personnel would be available in the specified geographic areas. In both cases the U.S. Department of Labor permitted exceptions, thereby defusing potentially serious problems.

Layoffs. Perhaps no issue has caused as much controversy between unions and program agents as that of layoffs. The problem first arose at the beginning of the PEP projects when municipalities had already laid off regular employees. Another set of problems arose after the inception of PEP and the hiring of PEP workers when cities needed to lay off employees.

One aspect of the layoff problem cuts across both time periods and was a consistent rallying-point for the unions: the PEP stipulation that regular workers could not be employed with PEP funds until they had been laid off for 30 days, while other workers could be hired after seven days of unemployment. Although this was a program stipulation, it led to conflict between the program agent and the unions whenever regular workers were on layoff status. Even cities which sympathized with the unions' complaint were unable to obtain waiver of this provision. In these cases, the city was placed in the middle of an argument between the unions and the Department of Labor. In other cases, the city was only too happy to defend or exploit the 30-day rule. In all cases, the rule was bound to conflict with seniority rules established in civil service procedures or in collective bargaining agreements. The relative rights of workers in a layoff situation were placed in contradiction. Under the seniority concept the least senior person would be laid off; all employees with more seniority would be able to bump the least senior person. The 30-day rule, however, prevented instant bumping of PEP employees by more senior regular employees. For the unions the prospect of less senior employees working while more senior employees were laid off was an anathema. The logical union solution to this conundrum was the layoff of all workers with less seniority than the affected regular employees until the regular employees qualified for PEP. Such a solution proved unpalatable to program agents and the Department of Labor. Where the parties were unwilling to compromise, conflict was inevitable. The Dayton court case is the prime example of the inherent clash between the 30-day rule and seniority principles. It followed a series of city moves that the fire fighters regarded as a challenge to their strength and the integrity of collective bargaining. The situation was ironic to the union and its members. Virtually all the PEP participants in the Dayton controversy were former regular city employees. Had they not been laid off in the first place, or had they not been recalled into the PEP project, the problem would have been avoided. The introduction of PEP with its own set of rules posed issues not considered heretofore in city employment.

The 30-day rule was followed without incident in some cases. In Detroit laid-off regular city workers observed the 30-day waiting period both at the start of the project and after the project was under way. While the union was not happy about the 30-day rule, it did not contest it directly with the city. Part of the explanation for the willingness of Detroit unions to accept the program rules was city assurance that half of the regular employees hired into PEP would be returned to regular employment status within a year.

An interesting development at the end of PEP's first year was the creation in two projects of separate seniority rosters for PEP workers from regular city employees. In Philadelphia and Wilmington, the seniority relationship between PEP workers and regular employees has been severed. Although layoffs had not occurred in either city, the possibility of future layoffs seems to have been one of the reasons for adopting the new position. Such separate seniority lists may prevent the kinds of difficulty that were encountered in Dayton.

A second aspect of the layoff problem is the potential conflict with the objectives of the PEP program. When additional revenues become available for hiring workers, a government jurisdiction with employees already on layoff will be under strong pressure to give preference in employment to the laid-off employees. Indeed, seniority provisions usually require recall of workers before hiring new employees. Yet PEP was not designed solely to provide public employment, but also to provide employment opportunities to certain groups. This problem has been epitomized in Cleveland, where the unions have challenged the right of the Department of Labor to limit the percentage of laid-off workers which could be recalled in the PEP program. The union in this case, as well as in Dayton, prefers to have no new employees hired or PEP employees with lesser seniority at work while regular workers are on layoff, for this would be an abridgement of seniority rights.

Union Cooperation. Most of the instances of union involvement in PEP projects presented here and cited by program agents and PEP administrators cast the unions in the role of impediments to the operations of PEP projects. The selection of the cases would have led one to expect this bias. At least a couple of the cases, however, provide illustrations of unions acting independently or cooperating with program agents to further the goals of the PEP program. In Detroit, union representatives accompanied the program agent to Washington to present a united front in requests for waivers from program regulations. Of course, these waivers would have helped union members, but the fact that both labor and management worked together could only help to improve their relations and facilitate cooperation in other areas of the PEP project. In Philadelphia, the union representing blue-collar workers in the school system went out of its way to improve the image of the PEP program. And in the same project, AFSCME agreed to waive its rights in favor of PEP workers when its members were unwilling to apply for particular promotions. While self-interest may be found in the union actions in these examples, the point is that unions cannot be regarded only as obstacles in PEP projects.

Union Representation of PEP Workers. In most instances, unions representing regular municipal employees have also represented PEP workers employed in categories closely related to those covered in the bargaining unit. Many PEP workers have chosen to become union members. Even when they have not, however, the unions have been willing to represent such workers for grievances and other personnel problems. Part of the formal agreement removing PEP participants from regular civil service seniority in Philadelphia was that the union would continue to represent the individual PEP participant. The unions' motivation may be to keep informed about PEP progress, to avoid undesirable precedents and problems, and to attract potential permanent employees of the municipality, but it may also be one of providing service to all workers related to bargaining unit interests.

Where PEP workers have been in categories unrelated to bargaining unit interests, union representation has been less consistent. Public safety unions have been quite unconcerned about the PEP program as long as the jobs included in individual projects are not ones customarily represented by the employee organizations. And in Wilmington, AFSCME did not try to organize those categories designated as "temporary" positions, even though such jobs constituted a significant portion of the PEP project.

Non-Labor-Management Reasons for Union Involvement. The outstanding example of major union involvement in the implementation of a PEP program for reasons unrelated to labor-management relations is the allocation of funds at the beginning of the Philadelphia PEP project. The conflict in this case was essentially between the mayor and the school board. The unions representing school personnel had much at stake in the outcome of this dispute because PEP funds could reactivate jobs cut from the school budget. They worked to effect an outcome to their advantage by using political means to influence a political decision. The fund distribution problem was never one of labor-management relations or contract interpretation.

Methods of Union Involvement

The method selected by unions to affect PEP depended in part on the subject area discussed above and in part on the existing relationships between the unions and the municipal employers or others responsible for the PEP projects. The major methods employed by unions included Congressional lobbying, traditional collective bargaining mechanisms, political pressure, appeal to higher authorities, and litigation.

Congressional lobbying was a principal means to influence the authorizing legislation. Here the unions were among the groups with different interests who attempted to achieve their goals in the EEA legislation by having particular provisions included. The review of the Congressional hearings indicates that AFSCME and the AFL-CIO federations were the chief spokesmen appearing before Congress, although other individual unions submitted comments in writing.

The unions employed three methods common in collective bargaining to pursue their interests with individual program agents. The first method was negotiations. In cases where program agents wanted to consult unions prior to or at the beginning of PEP projects, some form of negotiations was likely to occur. Indeed, some problems were avoided by negotiating resolutions before the submission of applications for funding. Negotiations could also occur during the course of a project when a problem could not be handled otherwise, as illustrated by the Lansing case. Whether these negotiations were formal or informal is not as important as the fact that the parties resolved differences bilaterally.

The second collective bargaining method of the unions was the grievance procedure. The established procedure provided a conduit for resolving differences that were based on the terms of the collective bargaining agreement. Such grievances were raised on behalf of individual workers, both PEP workers and regular city employees. More importantly, however, the grievance system also provided a means for answering questions with broad applicability. Sometimes the threat of a formal grievance ending in arbitration was sufficient to resolve the problem.

The third method was the strike. No strikes actually occurred as a result of PEP projects. In at least two cases, Wilmington and Cleveland, a strike was seriously threatened. It is not difficult to imagine that a strike would have been possible in Dayton if other avenues of resolution had not been available.

Aside from the customary bargaining methods, unions made use of other means to press their claims with individual program agents. The use of political pressure is not uncommon in public sector collective bargaining. In Wilmington, AFSCME attempted to influence the Democratic city council when direct dealings with the Republican administration failed. Political pressure was also necessary for the unions in Philadelphia to persuade the mayor to change the distribution of PEP funds, although the unions were joined in this attempt by the school district and citizen groups.

When direct pressure by unions on program agents was not effective, the unions sought outside aid. One possible source was the national offices of the union. Both the fire fighters and AFSCME locals obtained aid from Washington headquarters. In the former union, the aid was in the person of one international staff member who worked closely with PEP administrators. AFSCME did not generally supply visible personnel support but furnished information and advice to locals which requested them. Another source of help was the national office of the PEP program. Letters and telephone calls from unions were channeled to particular PEP administrators, who sometimes became identified as problem-solvers. Of course, the national office of PEP was also responsible for formulating official positions in some disputes so that it was not always a reliable source of help in all cases.

If all else failed, the unions would go into court to seek relief of alleged problems. Differences between the unions and the PEP program agents ended in litigation in two of the eight cases reviewed. The issues in each case had broad applicability, and the legal decisions would serve as precedents throughout the PEP program. In both cases, factors not part of the PEP project were part of the circumstances that led the unions to take their problems to the courts.

Reasons for Union Non-Involvement

The presence of unions in government jurisdictions implementing manpower programs does not automatically signal the involvement of unions in the programs, either in facilitating or in retarding the implementation of the programs. For a number of reasons, the unions may choose to play little or no role in the way the program is handled.

One obvious reason for unions to be little concerned with manpower programs is that the composition of the project clientele does not directly affect the unions and their represented employees. Several of the case studies note the absence of uniformed employee organizations in PEP affairs and explain it as a consequence of no PEP professional positions in police and fire departments. In another case with active union opposition to PEP, the union raised no objections to the program agent's actions with respect to PEP workers in groups not represented by the union. A corollary of this observation is that unions are interested in manpower programs only to the extent that such programs affect the well-being of the organization and its members.

A second reason for the lack of union involvement is preoccupation with other matters. A union which is still in the throes of organizing workers or which chooses to emphasize general community concern as its primary objective may have little time or interest for the details of manpower projects. Such a manpower project does not serve the union as a useful forum for advancing its broad goals; and the manpower project is consequently ignored.

Then, too, the union may simply be weak in relation to the public employer and unable to effect changes in the PEP project. This is the case in Atlanta. The unions representing the city's employees have not been strong enough to negotiate bargaining agreements with the city. Without a collective bargaining agreement, the unions have fewer bases on which to question the PEP project's design and implementation. Absence of substantive contract provisions and of established grievance processes diminishes a union's capacity to challenge the program agent. Although union weakness and the absence of formal collective bargaining do not preclude union involvement,they limit the opportunities for such involvement.

Finally, employer initiative and effective management of the PEP project may reduce the need for union involvement. Several examples have been noted of program agents inviting unions to consult informally prior to the submission of applications for funding. Unilateral employer action which takes into account possible union objections may also result in blunting the unions' opposition to manpower projects. Again, Atlanta is a case in point. The city was careful in designing and implementing its PEP project to minimize political pressures, adverse reactions from regular city employees, and possible union discontent. The program agent alone decided to limit PEP jobs to entry-level positions and to follow all civil service procedures in hiring PEP workers. Thus, two potential sources of union involvement common in other PEP projects were obviated by the actions of the program agent.

These examples indicate that it is unreasonable to expect active union participation and effect on project design in each and every case. Moreover, they also suggest possibilities for reducing union involvement by project design and employer initiative.

Potential Problems

While this research project focused on the first year's operations of the PEP program, it soon became evident that new and different kinds of problems were likely to emerge in the PEP program as a source of future union-management friction. This section suggests some of the potential problem areas.

One series of problems evolved from the stipulation that PEP participants be transferred from temporary to permanent employment. In most cases, PEP workers have been hired outside of normal civil service requirements and channels. The Philadelphia and Wilmington seniority procedures for PEP workers give formal recognition of these differences in hiring standards and procedures. One potential problem is whether PEP workers will be able to meet regular standards when they are moved into permanent positions. If not, unions may be expected to protest. Moving PEP workers into permanent slots could also make unions sensitive to the additional competition for promotions, especially if PEP employees are better qualified than typical regular city hires for similar positions. Regular city workers will likely object to any influx of new permanent employees unless the promotion and layoff rights of these new employees are subordinate to those of permanent employees with more seniority. Finally, unions will be wary of using PEP or similar manpower projects as a mechanism for affirmative-action programs. The unions cannot afford to oppose minority hiring per se, but they will object to different hiring/promotion standards being applied to certain groups of the population or to new standards being adopted for similar ends. A forerunner of this kind of problem was recently decided after Flint, Michigan refused to bargain on a new residency requirement.[6] The city initiated the requirement as part of its affirmative action program to hire city residents for the PEP project.

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[6] City of Flint (Michigan) Civil Service Commission and AFSCME Local 1600, Michigan Employee Relations Commission Case No. C72E83, September 26, 1972, reported in Government Employee Relations Report No. 476, pp. B-1 and B-2.

Changes in job distributions within individual PEP projects pose another source of potential difficulties. While in the opening round of PEP projects, unions were concerned about the grade level of PEP jobs and protecting the rights of regular city employees, they did not object to a program agent's determination of unmet public needs, except in Philadelphia. Program agents were able to distribute positions among departments as they saw fit; at most, the unions reacted to the designation of particular jobs. Unions may be unwilling to accept employer determination of job allocations in future years of the program. Because unions generally represent the interest of PEP employees, major changes in project direction which would affect such employees would be regarded with alarm. Moreover, unions with limited jurisdiction would wish to preserve the job slots allocated under PEP projects rather than have such slots move out of their jurisdiction. A hint of these problems was raised when the Philadelphia School District began to shift the focus of PEP hiring from maintenance to educational activities.

Continuation of the PEP program may also affect collective bargaining in two ways. One is that unresolved issues may be introduced into negotiations. AFSCME in Lansing had threatened to bring its problems with the PEP project to the next contract negotiations if the outstanding grievance remained unsettled. A second way in which the PEP program affects bargaining is that it alters the positions of the parties. For instance, the availability of PEP non-teaching assistants in schools meets part of the goals of teachers' unions as far as teacher workload and work content are concerned. As long as the PEP teaching assistants remain, the union has additional leverage to negotiate other demands. Thus, both the substance and the relative power of the parties in collective bargaining may be influenced by the design of the PEP project.

The environment in which PEP projects are implemented may also affect project direction and union responses. One obvious example is the effect of revenue sharing on state and local government jurisdictions. To the extent that revenue sharing permits governments to meet critical needs, the focus of PEP projects can be redirected to more peripheral areas -- and perhaps areas outside of unions' jurisdictions. At the very least, revenue sharing may eliminate the need to lay off regular employees, thereby removing a major area of union concern with PEP implementation. Even more, revenue sharing may permit many of the jobs initiated under PEP projects to become permanent positions. In that event, both the program agents and the unions would be more diffident about insisting on the design of a given PEP project.

A change in labor-management relations can also affect PEP projects in the future. Over time, public employee unions are likely to become stronger rather than weaker. Such changes usually occur over the course of years rather than months. Nonetheless, the direction would suggest increasing union ability to influence public manpower projects if the unions choose. A more immediate difference is the timing of agreement bargaining and project renewal. One factor which limited union participation in the first round of PEP projects was the coincidence of collective bargaining negotiations for agreements and the applications for project funding. With PEP projects considered an unknown and secondary matter, the unions oftentimes devoted their full attention to negotiations; they were reluctant to undertake any matter that would disturb the progress of negotiations. With the timing of negotiations and project renewals separated, there would be less reason for union reluctance to involve themselves in PEP projects.

A completely different set of problems would arise if the PEP program were to end. Unions would then shift their concerns from the composition and effects of the PEP project to the future of PEP positions and personnel. The termination of PEP would represent a change in the status quo, and any such change is likely to have repercussions for labor-management relations. Unions would certainly wish to protect PEP participants, especially if they were previously laid-off regular workers. The unions would also want to see positions created temporarily for the PEP project continued on a permanent basis, with the incumbents represented by an employee organization. The possibility of revenue sharing covering some of these positions, as indicated above, need not answer all the union requirements; the ability of revenue sharing to fund these positions on a permanent basis and the possibility of revenue sharing restrictions are not yet known. It is enough to recognize that the end of the PEP program will not end union involvement in PEP-related activities; the consequences of PEP will survive the actual program itself.

CONCLUSION

Findings

Unions generally have favored the Public Employment Program. Although unions raised a number of issues in individual projects, unions have never opposed the concept of PEP itself. The bases for favorable union reaction are the very ingredients of the program: additional funds for jobs in the public sector. The program thus provides unions with the potential for representing more people, additional dues, and a certain amount of job security for present members. With the transition of some PEP workers to permanent public employment, the prospects of additional members and dues increase. Scarce wonder that major public employee unions supported legislation for the Emergency Employment Act. In addition to self-interest, PEP also gained union support as a means to reduce unemployment and to provide needed public services.

Despite approving the over-all objectives of the program, unions have had reservations when the design and implementation of individual projects threatened the union organization or represented workers. The seriousness and impact of union involvement have depended in large part on the employment status of regular employees and on the level of jobs included in the PEP project. Unions which felt that the PEP project violated rights secured by collective bargaining agreements, civil service procedures, or other established regulations utilized available mechanisms to secure appropriate remedies.

Perhaps the most significant factor in determining the method and the substance of problem resolution has been the tenor of relations between a union and the employer, the PEP program agent. Each of the case studies bears witness to the basic generalization that the problems attending the PEP projects cannot be divorced from the total environment, particularly the climate of labor-management relations. If the relationships were firmly established and based on mutual respect, problems associated with PEP would be resolved in the course of normal procedures, with both sides seeking an acceptable solution. If the relationships were essentially mistrustful, the PEP problems would present new opportunities for the parties to clash and aggravate existing hostilities. If the relationships did not really exist, the PEP project would not become the basis for establishing meaningful labor-management relationships and collective bargaining. Thus, PEP projects provided additional subjects for bargaining but did not change existing relationships. Instead, the manner of union involvement tended to reflect the union-management relationships in the particular situation.

Particular circumstances in the union-management relationship may have affected the degree and manner of union involvement. For instance, outstanding negotiations during the implementation of a PEP project in some cases inhibited unions from protesting too strongly, lest their interference in the PEP project adversely affect the collective bargaining negotiations.

Over-all, unions and collective bargaining did not have a significant impact on PEP in the first year of the program. Although unions raised numerous problems, the final solutions to these problems generally did not prove to be major obstacles to the purposes of the program and the implementation of the projects. Only in exceptional circumstances were there questions about fundamental policies of the program.

The effect of the PEP program on labor-management relations appeared minimal. To be sure, in some instances unions gained additional members because of PEP. But the numbers involved did not create a shift in the relative power between the parties. In other instances, unions added to their popularity with existing members because of their stands on issues. Collective bargaining provisions were not modified or suspended because of the PEP projects. Nor were new provisions negotiated in collective bargaining agreements because of PEP. In short, the existing bargaining relationships adapted to the introduction of a major manpower program in the public sector. The introduction was not without problems, but it did not basically change the existing situation.

Regional offices of the U.S. Department of Labor were generally reluctant to become involved in labor-management disputes on PEP problems unless forced to do so. In part, such reluctance may have been conscious and intentional. The regional representatives in these cases would want to emphasize flexibility of program implementation and to decentralize decision-making by having the parties involved in the collective bargaining relationship work out project problems. In part, however, the reluctance seemed due to lack of understanding by the regional representatives of the role of unions and collective bargaining in the public sector.

Insensitivity of some federal officials to labor-management relations in the public sector may continue to be a source of problems in future manpower programs. In helping to design this research project, Department of Labor officials labeled the cases "good" or "bad" depending on whether or not public employee unions had posed obstacles to the implementation of PEP projects. A "good" example, however, may be the consequence of union weakness and program agent competence, and "bad" examples may include union involvement that is largely beneficial to the PEP project. To regard any involvement by unions as an impediment to manpower programs is naive and dangerous. It casts the unions in the role of inevitable villains, and collective bargaining as an intolerable roadblock. Such perceptions can only lead to continuing conflict between federal officials and public employee unions.

Policy Implications

The exploratory nature of this study limits the force of public policy pronouncements. The summary of findings nonetheless suggests some directions for public policy on matters related to labor relations in public sector manpower programs.

1. The Emergency Employment Act legislation included provisions that made for inevitable conflict in labor relations. For instance, the distinction between employees of the PEP agent and other workers in layoff time prior to eligibility for PEP was bound to invoke the wrath of union representatives of public employees. Similarly, the goals of providing jobs to unemployed workers and of meeting unmet public needs were not always compatible; the resulting uncertainty gave rise to union-management problems. Such provisions may have been intentional to provide flexibility or to insure the filling of primary public goals.

To the extent that they do not serve such purposes, however, they unnecessarily engender union hostility to the program and provoke reactions.

2. The emergency nature of the program probably produced union involvement which in other circumstances might have been avoided. Once the legislation was enacted, program administrators were concerned with speedy implementation of projects. Any intervention in the implementation process was likely to be perceived as an impediment. The uncertainties attending any new program were intensified with changes in dates for funding applications and the undefined status of union responses to applications. The speed of implementation may have been essential for purposes of national goals and politics. To the extent that more careful planning can be ensured and the results of the planning disseminated, some reactions from vested interest groups (such as unions) can be allayed, and opportunities for working out differences early can be broadened.

3. Labor unions will clearly want strict observation of the collective bargaining agreement, but agreement provisions differ from place to place. Similarly, the relative strengths of the parties and the personalities involved vary. Consequently, the issues, tactics and compromises reached with respect to labor-management problems in manpower projects will not be uniform. Even on the same issues, results have been different. Such disparity reflects the diversity of provisions and relationships which constitute collective bargaining. Flexibility in working out differences is the key to maintaining viable labor relations.

4. At the same time, program administrators must be aware of the labor relations ingredient in the design and implementation of manpower projects. While officials should not dictate answers nor encourage the parties to rely on them for resolution of differences, the officials must recognize that labor unions have an interest in manpower programs and have means to communicate their interest. The Department of Labor must be ready to accept negotiated decisions of the parties as long as such decisions are not contrary to law.

5. Labor unions and collective bargaining can facilitate manpower projects. Means to develop cooperation and to resolve any differences early will serve the best interests of the manpower project as well as of the parties' relations with each other.

Future Research

This study focused attention on eight cities whose employees were represented by labor unions. It was assumed that the unions had an impact upon the implementation and administration of PEP in most of these cases. The study was limited by two constraints: the time period covered and the method for selecting the cities to be studied.

This study confined its assessment to start-up problems and to PEP's administration during its first year. As the program unfolded, different problems arose at different times. Some agreements between the cities and the unions were made before the cities received any funds, but other problems and resolutions did not emerge until after funds were awarded. No long range evaluation of these agreements was undertaken.

The selection of sample elements can be based on either personal judgment or probability. Judgment samples are often used because, hopefully, they are representative of the population or because it is assumed the elements chosen are reflective of the problem under study. Clearly, the validity of any judgment sample hinges on the soundness of the judgment of whoever selects the sample. Furthermore, there is no objective way to compute the precision of such a sample in reference to the population, and no assurance that increasing the sample size will actually increase the precision.

In this study, rather than selecting a probability sample of cities, counties, and states which received PEP funds, the U.S. Department of Labor recommended the cities studied. Theoretically, this judgmental sample constituted a cross-section of cities where the unions had an impact on PEP. Although the nature and degree of the problems differed from city to city, each of the cities had relations with one or more unions. But there was no intent that these cities were representative of unionized public employers. And no comparative analysis was made between non-unionized and unionized municipalities.

In early 1973, the future of the PEP program was in doubt. The Nixon administration advocated discontinuance of the PEP program. Strong Congressional reaction indicated some chance for extending the EEA legislation. Until the outcome of this issue is known, plans for future research must recognize the possibilities of the PEP program's continuance or termination.

Plans for future research on PEP must compensate for the design limitations of this study and must take into account the uncertainty of the program's future. Two basic future research options are suggested for consideration of the Manpower Administration of the U.S. Department of Labor.

Option 1. This option compensates for the limited time span covered by the analysis herein, but it does not address itself to the exclusion of other unionized or non-union areas. Under this option, the assessment of the same eight cities would be extended over an additional year, regardless of PEP's future.

(a) If PEP is not changed fundamentally, and continues through fiscal year 1974, some of the questions of interest are as follows:

1. Have the cities and the unions abided by both pre and post-award agreements?
2. Were there any violations of the agreements?
3. Have new problems emerged, which were neither present nor anticipated when original agreements were signed?
4. What type of machinery was set up to reconcile conflicts arising over the interpretation of the agreements?
5. Over the long run, what type of problems were most difficult to resolve?
6. Now that the U.S. Department of Labor, the cities, and the unions have had experience with the guidelines, would they recommend changes in them?

7. How many PEP participants have joined a union? What type of employees have joined unions? Why have PEP participants joined unions in some cities and not in others?

(b) If PEP is discontinued as a program, the following research questions can be raised:

1. Have new and unanticipated problems arisen because of a basic change in PEP's structure and intent?

2. Have the cities and the unions abided by agreements reached under former PEP guidelines?

3. What is the unions' impact on transition to unsubsidized jobs?

Option 2. This option compensates for the exclusion of non-union cities, counties and states, but it also extends over time the analysis of the eight union cities. The sample areas will be increased by randomly selecting new cities, counties and states (union and non-union) clustered on the bases of: (1) whether state law supports collective bargaining in the public sector, and (2) the amount of PEP funds allocated to cities, counties and states. It is estimated that twelve new areas will be added to the eight cities already studied.

A retrospective and "present-state" analysis will be undertaken in the twelve new areas, while the assessment done to date in the eight cities will constitute the basis from which subsequent changes in these areas will be analyzed. The initial issues studied in the eight union cities will be studied in the additional twelve areas.

Questions listed under Option 1, depending on whether assumption "a" or "b" holds true, will be raised under Option 2. In addition, union and non-union areas will be compared. A comparative analysis will be made between the randomly selected and non-randomly selected cities to determine the degree of generalization which can be posited about the findings.

The choice between these two research options depends on the future of the PEP program and the research priorities of the Department of Labor. Regardless of changes in the PEP program, additional research will provide insight into the unique labor-management problems of manpower programs in the public sector.

ATLANTA

Karen S. Koziara

The City of Atlanta

Atlanta, a city growing both in population and economic importance, had a 1970 population of 496,973. Atlanta's economic activities center around banking, insurance, transportation, wholesale and retail trade, and government. There were 199,200 people in the labor force in 1970. The labor force increased to 200,500 people in 1971. The unemployment rate in 1971 was 9.5 percent. This represented a sharp rise from the 1969 unemployment rate of 5.2 percent.

The breakdown of Atlanta's unemployment rate shows results similar to national figures. People under 22 and over 45 were harder hit by unemployment than people between the ages of 22 and 45, while unemployment rates for black people were more than twice as high as for white people. The 1969 figures for the area served by the Section 6 EEA grant showed unemployment among adults to be almost twice as high as for the city as a whole.

Atlanta is in a quite favorable fiscal position in comparison to most other major cities. The city operates within its budget, and there have been no layoffs of city employees because of financial pressures. Some of this relative affluence results from the recent growth of the city. The movement of middle class families to the suburbs and the influx of low-income rural workers to Atlanta are a very recent development relative to most U.S. cities.

In addition, the city has been an expanding commercial area.

Atlanta has a weak mayor system of government. The aldermen are strong and independent enough to have a significant impact on a large variety of city programs and to oppose plans and policies proposed by the mayor. Such opposition rarely results from political party differences; it can nevertheless be fatal to the mayor's proposals. It was the Board of Aldermen that developed the criteria to be used for the hiring of workers under the PEP program.

Employee Organizations and Bargaining History

Six employee organizations represent workers employed by the City of Atlanta. Two are locals of the American Federation of State, County, and Municipal Employees, one primarily for sanitation workers and the other for white-collar workers. Local # 134 of the International Association of Fire Fighters represents firemen, while the Fraternal Order of Police represents policemen. In addition, there are two black organizations which represent their members on matters of social interest such as equal employment opportunity and the employment status of black workers. One of these organizations, the Brothers Combined, is in the fire department, and the other, the Afro-American Police League, is in the police department.

It is estimated that about 75 percent of the sanitation workers belong to AFSCME. The percentage of eligible white-collar workers who belong to AFSCME is lower, but there are indications that both AFSCME locals have increasing membership. The FOP represents a majority of the policemen although it has few black policemen as members. While the IAFF represents a majority of the firemen, including some black firemen who belong to the Brothers Combined, a significant number of firemen do not belong to the IAFF because they would prefer a more militant organization. These include black and younger firefighters, as well as some older firefighters who had previously been members of the Teamsters when it attempted to gain recognition for Atlanta's firefighters.

None of the organizations representing Atlanta city employees none been formally recognized by the city. There is no law providing for representation elections among city employees, and no elections have been held. A recent Georgia state law, the Fire Fighters Mediation Act, provides for the election of bargaining representatives and protects bargaining rights of fire fighters. However, this law requires that any city with a population of more than 20,000 must agree to the law by ordinance in order for the law to be binding on that city. Atlanta has not yet passed the ordinance to bring it under the Fire Fighters Mediation Act, nor is immediate passage expacted. Many of the city's fire fighters are not residents of Atlanta and their political muscle in Atlanta is minimal.

The city's recognition of unions has been loose and informal. There has been no formal contracts with any of the organizations representing city employees. Only a minority of the city employees are represented by collective bargaining organizations. The closest the city has come to a collective bargaining agreement resulted from a 37-day sanitation strike in 1970. At that time the city agreed to a number of union demands, including wage and fringe benefit demands, but insisted on discontinuing the check-off of union dues. The city apparently reasoned that the union members would not continue the strike over the check-off issue and that the loss of the check-off agreement would result in dues and membership losses for the union. However, the union believes that the loss of check-off served as a focal point which helped to solidify the sanitation workers against the city.

An earlier fire fighters' strike had much less success. In 1966 the fire fighters, who had been organized by the International Brotherhood of Teamsters, struck for recognition. About 631 of the fire department's approximately 830 members took part in the strike. The city fired all 631 of the striking fire fighters and broke the strike. About half of these fire fighters were subsequently rehired as new employees. A majority of these rehires, together with many young and black fire fighters, do not belong to the IAFF because of its lack of militance.

It is these fire fighters who formed the nucleus of a recent informational picketing campaign aimed at restoring parity between police and fire fighter salaries. Parity had been broken following a police "no see" drive, during which police refused to write traffic tickets. Although the policemen remained at work, their failure to write tickets resulted in a city revenue loss that could not be regained. The fire fighters' campaign for the restoration of parity ended with the federal government's 1971 wage and price freeze.

Although the city does not engage in any formal collective bargaining, it does meet with representatives from the employee organizations in September to discuss employment terms for the following year. These discussions serve as the basis for recommendations to the Council of Aldermen. The council may accept, reject or modify these proposals.

It seems apparent that the city, while not following its previous hardline policy, is anxious to avoid more formalized bargaining relationships. This policy now includes extensive efforts to communicate with city workers and to anticipate and avoid problems that might serve as a focal point for union activity. For example, the 4-day, 40-hour week has been implemented in some departments, and there have been experiments with floating holidays and a recent increase in vacation time. The city's policy toward labor relations, the lack of legislative protections for public employee bargaining, and the lack of a strong labor movement tradition typical of the South are all factors operating against the rapid development of collective bargaining between the city of Atlanta and its employees.

Other Federal Programs

Atlanta has had good success in getting federal funding for a variety of projects. However, the city's experience with one project, the Atlanta Beautification Corps (ABC), has resulted in the city considering carefully the acceptance of proferred federal funds. The ABC program originally entailed federal funding to provide approximately 20 jobs for disadvantaged workers. The members of the Corps performed jobs such as cleaning parks and streets to improve Atlanta's physical appearance.

The federal government provided funds for eighteen months. The federal funds ran out after the initial year and a half, and the members of the Corps picketed and demonstrated to have their jobs continued with city funding. As a result of the demonstrations, the city continued to support the program for two years. Finally, after two years of funding, the city approved funds for the Corps to continue a final six months while other jobs were found for the Corps members.

All of the Corps members did find alternative employment. However, the mayor and the aldermen felt that they had received much bad publicity because of the demonstrations. Racial overtones surrounding the controversy intensified the problem. The ABC was made up completely of black workers. In the final vote on ABC finding, all of the black aldermen voted for its continuance, while all the white aldermen but one voted for its demise.

As a result of the problems surrounding the ABC program, the city has accepted funds from similar federal projects with great care. Atlanta can afford to be more careful than most major cities because of its relatively favorable financial position. The city's experience with the ABC program also helps to explain the guidelines it developed for PEP hiring.

The PEP Project

During fiscal 1972, Atlanta was allocated a total of $1,125,399. in PEP funds. A Section 5 grant was responsible for $584,000, while an initial Section 6 grant and an addition to that grant accounted for the remaining $540,799 in allocated funds.

The Section 5 funds were to provide a total of 79 jobs, with the bulk of the funds going to five major areas. The largest allocations were in the area of fire protection and environmental quality. Other funds were allocated to the Board of Education for clerical, maintenance, library and teaching assistant positions; to the Parks and Recreation Department for an electrician, a semi-skilled worker and park laborers; and to the Public Works and Transportation Departments for an accounting position and automotive mechanics positions. The small remaining balance of the planned hiring was to take place in a number of areas, including such positions as a Consumer Affairs Planner, Finance Department clerks, a draftsman for the Planning Department and a personnel assistant for the Training

Division of the Personnel Department. All of these positions, including the professional positions, were designed to be at the entry level.

The Section 6 funds also concentrated on providing for positions in fire protection, environmental quality, recreation and parks, and public works and transportation. In addition, some Section 6 funds were allocated to the Model Cities program for keypunch operator trainees, clerical workers and an accountant. Several other departments, including the Mayor's Office and the Finance Department, were allocated the remaining funds.

The city developed four major guidelines to determine what jobs should result from PEP funding.

1. Hiring is to be concentrated in areas of great labor turnover;
2. New positions should relate to permanent capital improvements (new parks, fire stations and sewage disposal plants);
3. All workers hired under the PEP program must meet regular Civil Service requirements;
4. All employees are to be informed that their jobs are dependent on federal funds and will terminate if the federal funding stops.

These criteria reflect the city's experience with the ABC, its desire to minimize the possibility of similar problems with PEP employees, and a concern to maximize the likelihood that PEP employees will eventually move into permanent city employment.

The city expects to keep about 90 percent of the workers hired under the PEP program.

In addition, all hiring was done at entry level positions, even for professional positions. The major reason for this practice was to avoid friction between regular city employees and the workers hired under the PEP program.

The PEP funds were administered by the Personnel Department within the general guidelines developed by the Board of Aldermen and the mayor. The Personnel Department tested applicants and sent potential employees to the relevant departments, where final hiring decisions were made by the department heads. Applicants were sent to the department heads in groups of three; if all three members of a group were rejected, no additional applicants could be sent to that department until six months had lapsed.

Notification of the Unions

The city wrote Local #134, the IAFF and AFSCME of the proposed PEP grant. These letters were dated September 23, 1971 and stated that comments were to be made by October 8, 1971. There were no union comments filed with the City of Atlanta or the Regional Office of the Department of Labor. AFSCME indicated that it did not respond because of the newness of the program, the limited time available for comment, and the union's involvement in other pressing problems at the time. An officer of the IAFF claimed that he would not have known of the program at all if he had not bee involved in a city-wide Manpower Planning Board.

The Slow Hiring Problem

Atlanta has had a quite serious problem in filling the jobs for which PEP funds have been allocated. In July, 1972, the Atlanta Regional Office of the Department of Labor informed the City of Atlanta that 40 percent of the funded jobs were as yet unfilled. The Section 5 grant, which had been originally funded for $584,600 had $385,400 unexpended funds as of July 1, 1972. It was projected that $350,000 in unused funds would remain in September, 1972. The Regional Office viewed this as a serious problem. It was particularly upset because Atlanta is the home of the Regional Office.

One of the major reasons for slow hiring was the reluctance of the city administration to become involved in political problems and dubious publicity such as had been generated by the Atlanta Beautification Corps. In a letter to the Regional Office of the U.S. Department of Labor, the mayor explained that the city wished to utilize the federal funds fully, but that it had been learned that it was a mistake to use federal funds merely because they were available. He explained that more was wanted from the program than simply putting people in jobs. He suggested that it was to the interest of the city to have "a stable and administratively sound employment force for our governmental administrations," and that the city wished to use the PEP program as "an intermediate step to full, permanent locally-trained Civil Service Status."[1] On the surface, it would appear that a city fearing the possible entanglements of PEP funds could forego making application for them. However, it is politically difficult for a city administration to explain to its constituency a lack of interest in available federal funds.

The attitude of the city administration resulted in a long lag between the funding of the Atlanta PEP program and the approval of the program by the aldermen. The approval was accompanied by standards for hiring under the PEP program to insure that the PEP employees would move into permanent city employment.

The hiring process was further complicated by Personnel Department rules, particularly one stipulating that a department turning down three prospective employees for a position must wait six months before being referred additional employment candidates. Observors believed that this rule had the potential to slow hiring normally, and could also be used intentionally by aldermen and friendly department heads to slow hiring for political reasons.

Other factors contributed to the slow hiring in Atlanta. The environmental quality positions could not be filled until the completion of a new water treatment plant. The Fire Department had difficulty with 20 Section 6 trainees who left in the first week of training. They later returned to the Fire Department, but the experience made the Department reluctant to get involved in additional Section 6 hiring. Section 5 hiring for the Fire Department was delayed because of a recent and unexpected upsurge in unfilled permanent positions in the department, possibly resulting from a loss of pay parity with the Police Department.

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[1] Letter from Atlanta Mayor Sam Massell to Regional Manpower Director William Norwood, Jr., July 31, 1972.

Some department heads were reluctant to restrict hiring to poverty areas, as required by Section 6. They argued that this restriction limited the quality of their potential employees. Since a high proportion of blacks live in the Section 6 area, this argument may also have had racial overtones.

Civil Service exams were a problem in filling the keypunching positions. Generally, however, testing was not a problem and there were ample numbers of recruits for each position.

Finally, some positions were not filled due to administrative problems. In particular, some of the library positions were rearranged, and hiring had to wait approval for the changes from the Department of Labor and the city.

The slowness in hiring produced the only major modification of the Atlanta PEP program. The U.S. Department of Labor met with city representatives on several different occassions to try to speed the hiring process and prevent the accumulation of unused funds. Among the proposals made were offers of assistance in reviewing civil service procedures for rules which constructed artificial barriers to hiring. These efforts were of little avail, except for the development of a summer program designed to hire 289 disadvantaged students at $1.60 an hour for the

Parks Department.

Even with the summer program, accumulated funds continued to plague the Atlanta PEP program. The city may be forced into action by recent television publicity focusing on the unspent funds.

Changes in Union Attitude Toward the Program

Although none of the unions representing Atlanta's employees provided input or made comments on Atlanta's original PEP proposal, union interest in the program grew during its first year of operation. AFSCME and the AFL-CIO Human Resource Development Institute (HRDI) have been the major critics of the design and implementation of the program. They have found three general faults in the current PEP project.

First, they feel that the program guidelines were violated by the city's failure to notify the unions in time for comments. They believe that the Department of Labor should have recognized that the short lead time would make union reaction difficult and should have made provision to insure participation in the program's planning stage.

Second, both organizations also expressed concern over the accumulation of unused appropriations. The summer program was thought to be an inappropriate use of money when adults and veterans, for whom the funds were originally intended, were unemployed. The labor representatives had only very vague ideas about what had delayed PEP hiring. HRDI had referred applicants to the PEP program from the Veteran's Assistance Program. Jobs were available, and the people referred were eligible for employment; however, these people were not hired. Despite telephone inquiries, HRDI had not been able to learn why their candidates had not been hired.

Finally, there was criticism about the jobs for which PEP funds had been originally allocated. The unions charged that the city had requested funding for electricians and accountants. In creating jobs for people with specialized training, the city neglected the needs of the unemployed who really need the jobs.

The overall criticism of the Atlanta program voiced by the two organizations was that the legislative intent behind the PEP program was being thwarted by the city's implementation of the program. They plan to go over the 1973 proposals very carefully with the object of filing extensive comments with the U.S. Department of Labor. This approach, rather than efforts to change the current program, is planned because of the difficulty that AFSCME has experienced in getting changes in any city program once it is under way.

The two organizations anticipated that their comments on the 1973 program would act as a catalyst to communication between the city and organized labor and provide for a cooperative effort between the two in terms of developing the new program. The PEP program was viewed as having tremendous potential value to the community by providing jobs for the disadvantaged and needy if it was properly designed and administered. There was little concern with the possibility that the program would have a negative impact on union members or union leverage.

In contrast, other organizations representing city workers have had little interest in either the employment effects of the program or the implications of the program for their own organizations. Although a number of PEP hires in the Fire Department had been planned, and although the national offices of the IAFF have been very concerned about the PEP program, Local # 134 of the IAFF had not shown any interest in the program during its first year of operation. Part of this disinterest may have resulted from the belief that Atlanta no longer planned to hire fire fighters with PEP funds because of the poor experience with training during the initial program, and because PEP guidelines have residency requirements for employees while the Fire Department does not. Another factor may be that the city is having difficulty in filling permanent fire fighter positions, and so hiring for the PEP program in the Fire Department has been slow and of limited impact. If the originally planned hiring had been carried out, the IAFF might have become much more interested in the operation of the PEP program.

Summary

The major problem encountered by the Atlanta PEP program has been the failure of the city to hire rapidly enough to use its allocated funds. This is a continuing problem, and one that is not subject to easy resolution because of the Atlanta's peculiar economic and political characteristics.

This slowness in hiring has been the basis for some union criticism of the program. AFSCME and the AFL-CIO Human Resource Development Institute believe that the program designed by the city does not live up to the legislative purpose behind the Emergency Employment Act. They criticize both the accumulation of unused appropriations because of slow hiring and also the types of jobs for which the finding has been used. Finally, it is suggested that the unions did not have adequate time to make meaningful comments on the original program. This was taken as an indication of the Department of Labor's insensitivity to the labor movement and other interested community groups.

Although there is union concern with these facets of the program, there have been neither formal nor informal efforts to date to make these objections known to the city of Atlanta or to officials at the Department of Labor. When asked about labor-management problems in the implementation of the program, all of the people interviewed from either the city or the DOL said they knew of no union problems of any type. Therefore, they had no basis for thinking that the project had any impact on the existing collective bargaining relationships.

From the unions' viewpoint, this situation will change in fiscal year 1973. Whether or not - and to what extent - the union plans materialize remains to be seen.

CLEVELAND[1]

Karen S. and Edward C. Koziara

The City of Cleveland

Cleveland, a heavy industry city, had a population of three-quarters of a million in 1970, a decline of 126,000 from 1960. The white population dropped by 27 percent and the black population rose by more than 15 percent during the decade. Major manufacturing industries with great influence on the Cleveland economy include aerospace, auto, electrical equipment and machinery, oil refining and steel. The service sector, however, has been providing an increasing proportion of jobs.

Because of the city's industrial composition, economic downturns affect Cleveland sooner and more severely than cities with less dependence on durable goods manufacturing. The national economic downturn of the late 1960's and early 1970's had an accelerated impact on Cleveland's economy, and between 1969 and 1970 many major business indicators reported a much worse economic situation for Cleveland than for the rest of the nation.

City of Cleveland officials maintained that the situation was worse than the bleak figures indicated because low-income unskilled citizens were attached in disproportionate numbers to the durable goods industries. Additionally, the city was in danger of losing some of the remaining jobs. Since 1967, 41 major manufacturing firms providing more than 15,000 jobs have gone out of business, stopped manufacturing, or left the city.

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[1] This case was compiled from secondary sources only, according to the operating guidelines established by the funding agency.

As a result of the business exodus, general economic conditions and large high-school drop-out rates,[2] the city's unemployment rate between 1969 and 1970 rose from 5.1 percent to 8.4 percent. The city maintains that this BLS rate is an understatement. The Research Division of the Ohio Department of Personnel calculated an 11.6 percent rate for the first quarter of 1971 and estimated minority unemployment at 20.1 percent. Unemployment was highly concentrated in Cleveland's predominantly black Near-East Side. With higher unemployment rates, the pool of unemployed was more skilled in 1971 than in the mid-60's. Many who lost jobs had been employed in aerospace, electrical and non-electrical durable goods manufacturing, construction and automobiles. Veterans were 45 percent of all males registered with the Ohio Bureau of Employment Service. Cleveland also had close to 35,000 welfare cases.

Economic and employment conditions have had a disastrous effect on the city's tax base, and Cleveland was confronted with a fiscal crisis in 1971. With fewer property and payroll taxpayers to draw upon for support of needed services, the city in 1970 had submitted to Cleveland voters a request for a .8 percent payroll tax increase. In order to gain support and provide city property owners with a tax plan based on "ability to pay", a property tax levy was not submitted for renewal. The payroll tax increase was voted down. The same issue, with a slightly lower rate, was submitted again in early 1971. Once more it was defeated. As a result, tax revenue available to the city's General Fund Account shrank from 105 million dollars in 1970 to 97 million dollars in 1971.

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[2] Every year between 4,500 and 5,000 youth drop out of Cleveland schools.

While resources were shrinking, the cost of needs was rising. An increase in city budgets of nearly 30 million dollars was caused by new labor agreements, additional public safety personnel, needed capital improvements, equipment replacement, and an expanded recreational program. At the end of 1970 the city had employed about 15,000 people. Between January 1 and September 30, 1971, the city had laid off 1,725 employees. An additional 826 positions had been vacated through attrition and retirement. The overall economic, employment and financial situation faced by the city was more desperate than any of the other cities in this report.

Cleveland has a strong mayor-weak council form of government. The city has home rule, which means it has the power of a municipal corporation to frame, adopt, and amend its charter for its government and to exercise all powers of local self-government subject to the Ohio Constitution and general laws. When the PEP program began, Cleveland had a Democratic mayor, Carl B. Stokes, and a Democratic city administration. In November 1971, a Republican mayor Ralph Perk, and Republican administration took over the city government.

Employee Organizations and Bargaining History

Cleveland negotiates with 17 unions. Important among them are the Foremen and Laborers Union, the International Brotherhood of Teamsters, the American Federation of State, County and Municipal

Employees, the Brotherhood of Carpenters and Pile Drivers, the Ohio Federation of Licensed Practical Nurses, the Cleveland Building Trades Council, the Association of Cleveland Fire Fighters, the Fraternal Order of Police, and the Cleveland Police Patrolmen's Association.

Many of the city's bargaining relationships, including those with AFSCME and the Fire Fighters, are well established and have a long history. Public employee unions are relatively strong in Cleveland because of the traditional Democratic party-labor political ties which exist in many northern big cities. For example, construction workers in municipal employment are generally given a percentage of the wage which is negotiated in the private sector. In Cleveland, city and private construction workers are at parity.

The close relationship between the city and its unions began to show signs of strain under the former Democratic administration. A number of strikes were called. Layoffs took place as the city's financial condition worsened. Under the subsequent Republican administration the labor relations atmosphere has remained tense. Layoffs and the threat of further layoffs have seriously impaired the quality of city service and the state of labor relations. Few unions have escaped the economy drive.

The PEP Program

The city of Cleveland received funding under three separate grants during 1971 and early 1972. The first two of these were issued November 1, 1971; a Section 5 grant for $2,459,000 and a Section 6 grant. A third grant, for approximately $3,400,000 was issued on January 14, 1972.

In the original proposal filed by the Stokes' administration, the city placed first priority on meeting unmet public service needs and second priority on providing jobs that would be transitional to permanent employment. To help determine what positions should be requested, the city asked the directors and commissioners of all city departments to identify jobs which they regarded as essential for providing adequate levels of public service. These reports were the basis for singling out six departments which had been hit hardest by funding cutbacks. The following list shows the departments and positions designated as being in need of the most PEP funding:

Department	Position
Safety	Patrolmen
Health	Public Health Nurses, Practical Nurses, General Health Aides, Technical Specialists
Public Service	Waste Collectors, Waste Collector Drivers
Public Properties	Directors of Recreation, Physical Directors Municipal Laborers
Community Development	Housing Inspectors, Clerical, Plumbers, Relocation Personnel
Civil Service	Examiners

In its requests for PEP funding, the city specifically proposed to use the appropriate funds to restore needed public services through the hiring of laid-off city employees to their former positions rather than to add new positions and employees. The city argued that although some of the workers eligible for PEP employment had been unemployed for less than six months, the proposal did not violate the EEA's maintenance-of-effort provisions. Cleveland's general economic and financial position was described in great detail, and the proposal also pointed out that funding to restore these services was not available from local, state or other federal sources. When funds were appropriated for the first two grants, no limitations were placed on their proposed use to rehire laid-off city employees and to restore discontinued city services.

In order to comply with existing labor agreements and the PEP guidelines, the city established hiring priorities for the PEP Program. The first three groups ranked were as follows:

1. Former city employees laid-off from city jobs as a result of the financial crisis who are unemployed must be hired before the city opens up positions to new job applicants;
2. Unemployed and underemployed veterans;
3. Those disadvantaged persons who have been laid off from contract JOBS or OJT training because of labor market conditions, or who have completed employability plans and/or training courses under Department of Labor manpower programs and cannot find immediate employment at the trained skilled level.

Thus, the city planned to hire back laid-off city employees before hiring veterans, the disadvantaged, the near-disadvantaged poor, the near poor, and other unemployed and underemployed.

A Department of Labor review of the results of Cleveland's first two PEP grants showed that, as of January 1972, about 96 percent of the 297 jobs funded under the Section 5 grant and 86 percent of the 85 jobs funded under the Section grant were filled with previously laid-off city employees. Cleveland's recall rate was higher than the recall rate in any other city, and it was substantially higher than the national average of between ten and eleven percent.

The review of the Cleveland PEP program also indicated that the program did not have adequate numbers of participants from various segments of the disadvantaged and unemployed, particularly Vietnam-era veterans. The Department of Labor emphasized the importance of providing employment for veterans; its goal was for veterans to make up at least one-third of the PEP program participants. Nationally about 30 percent of the participants were veterans, while in Cleveland only about 11 percent were veterans.

The high percentage of recalls in the Cleveland program also raised the question of whether the city was violating the maintenance-of-effort provisions of the EEA. The Department of Labor did not want cities shifting their revenue and finance problems to the federal government by laying off employees with the expectation that federal assistance would provide for their recall.

Program Modifications

Cleveland got a new mayor and city administration in November 1971. The new administration applied to the Department of Labor for an increase in the original Section 6 grant, and on January 14, 1972, the city received an additional allotment of $3,400,000.

During the period when the grant was under consideration, the Department of Labor became aware that Cleveland was planning two additional layoffs of a total of about 900 city workers for the spring of 1972. Concern with the proposed layoffs, the high percentage of recalls in the Cleveland PEP program, and the program's lack of concentration on certain segments of the unemployed led to further investigations of the city's proposed use of the additional $3,400,000.

2 Department of Labor and city officials met to discuss these problems. As a result of their meeting, Cleveland received a letter from the Director of PEP which stated:

> We think the recently announced Section 6 allocation should be used primarily to establish jobs that will permit the hiring of unemployed persons who are not former municipal employees. Specifically, no more than 15 percent of the $3.4 million allocated on January 14, 1972, may be used to rehire persons employed by the city during the six month period preceding the grant application.[3]

This requirement was imposed on the grounds that the primary purpose of the Employment Emergency Act was to provide jobs for the unemployed and disadvantaged, not to rehire laid-off city employees. Moreover, a definite percentage of recall would eliminate the need for

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[3] Letter from William Mirengoff, Director of PEP, to Mr. Campenella, Cleveland City Budget Director, February 4, 1972.

DOL to use its limited personnel to investigate Cleveland's financial position in order to insure that the EEA's maintenance-of-effort requirements were not being violated. Limiting the percentage of laid-off municipal employees that could be recalled with PEP funds was an unusual measure for DOL to take. The only similar restriction on a grant award was in the City of Scranton. Even with the imposition of the limitation on recalls, the percentage of recalls among Cleveland PEP participants was expected to be about 50 percent. This percentage would still place Cleveland significantly above the national average for recalls.

DOL and city officials discussed the implications of the 15 percent limitation before it became official. Not all laid-off city employees were exempted from participating in the PEP program once the city had made the allowed 15 percent recalls. The city was permitted to rehire without limit employees who had been laid off for more than six months. During these discussions, the city indicated that it felt that it could satisfy both its union agreements and the grant restriction on recalls.[4]

Later in February the city published notices of the grant application in local newspapers and sent copies of the application to the concerned unions. None of these notices contained reference to the limitation on recalls.

Comments on the grant application from the FOP and Local #93 of the IAFF were filed with the DOL during March. The unions' major complaint about the grant was that Section 6 funds restricted job eligibility to residents of areas of high unemployment. Cleveland's city charter does not require city employees to be city residents. As a result, city employees who were living outside the city and waiting for recall would not be eligible for jobs funded by the grant.

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[4] Letter from A.A.Caghan, Regional Attorney, Department of Labor, to David O. Williams, Director of Special Review, Office of the Assistant Secretary for Manpower, Department of Labor, May 5, 1972.

A meeting between DOL officials, city of Cleveland officials, and representatives of the concerned unions was held on March 13, 1972. During this meeting, the FOP, Local #93 of the IAFF, and the city and DOL representatives agreed to award the entire grant to the Board of Education. However, a dissatisfied AFSCME spokesman suggested that representatives from national union headquarters and officials of the DOL meet to discuss dropping both the Section 6 residency requirement and the 15 percent limitation on recalls. The city finally amended the grant proposal to drop Police and Fire Department positions from the application.[5] AFSCME's suggestions had no apparent impact on the proposal, and the DOL approved the grant on March 22, 1972.

Union Legal Action

AFSCME, concerned that the grant restriction would result in city jobs going to new employees rather than to laid-off union members, began legal action on March 27, 1972, by requesting injunctive relief to prevent the city from hiring people other than laid-off city employees with PEP funds. Injunctive relief was denied pending a fuller consideration of the issues.

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[5] Letter from Commodore Jones, Chicago Acting Regional Manpower Administrator, DOL, to Harold O. Buzzell, Deputy Manpower Administrator, U.S.D.L., March 27, 1972.

In its suit against the city, the union charged that the 15 percent limitation violated the provisions of the EEA and the administrative rulings designed to implement the law. The law provides:

> (1)the program...(B) will not result in the displacement of currently employed workers (including partial displacement of currently employed workers such as a reduction in hours of non-overtime work or wages or employment benefits), (C) will not impair existing contracts for services...[6]

In interpreting this provision, Department of Labor administrative regulations do not distinguish between regular grants and grants to fill pre-existing job slots which would not be filled without PEP funds. The union also based its position on a Department of Labor regulation which excluded laid-off employees waiting for recall from the definition of unemployed persons eligible for PEP employment. The union reasoned from this provision that laid-off city employees fell into the category of workers protected from displacement by workers hired with PEP funds.

The union further argued that the 15 percent limitation on recalls ignored existing labor relations contracts and civil service regulations. Section 30 of the contract between the city and

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[6] 42 U.S.C.A. Section 4881(a).

AFSCME states:

> Employees shall be recalled in the reverse order of layoff in accordance with the rules and regulations of Civil Service....A laid-off employee will be recalled to the first available job position which he is qualified to perform.

Civil Service regulations require that the names of laid-off employees be placed at the head of the eligible list for jobs from which they were laid off and for similar jobs for which they would be eligible.

The provision in the law which stipulates that PEP grants cannot interfere with existing contracts for services was the basis for AFSCME's second major argument. The union stated that, although the term "contracts for services" is vague and open to a number of interpretations Congress would have specifically excluded collective bargaining contracts from this protection if it had meant to do so. The union reasoned that its agreement with the city fell within the protective limits of the phrase "contracts for services", and that city hiring for the PEP program which ignored the seniority and recall provisions of that agreement interfered with the city's existing contracts for services. Finally, the union argued that if Congress had intended to protect contractors from having their services replaced by the PEP program, it had also intended to protect current and laid-off city employees from losing their positions.

The City of Cleveland and the DOL were defendants in the case. They argued that laid-off city employees were clearly not currently employed workers. Therefore, the requirement of the Emergency

Employment Act that PEP participants not replace currently employed workers was irrelevant to whether or not laid-off municipal workers could be rehired with PEP funds.

Second, they contended that the union's agreement with the city was not a "contract for services" within the meaning of the act. While agreeing with the union that the phrase was vague and open to interpretation, they reasoned that the phrase should be considered and interpreted in light of the law's express purpose and explicit provisions.

The major purpose of the law was to aid the unemployed, with a special emphasis on providing employment for Vietnam veterans, new labor force entrants, the elderly, persons with limited ability to speak English, welfare recipients, migrants, and people displaced because of technological change. If the distribution of PEP funds were entirely ruled by the provisions of collective bargaining contracts, it would be difficult to fulfill the law's major purpose. The benefits of the act would be concentrated on one small segment of the unemployed rather than being distributed among the unemployed and underemployed generally. Therefore, the defendants reasoned, it was unlikely that Congress intended the phrase "contract for services" to include collective bargaining contracts.

The DOL also argued that the 15 percent limitation was simply one mechanism among several designed to implement the maintenance-of-effort requirements of the act. Without this provision, the DOL would be required to investigate continuously Cleveland's financial situation and hiring practices to determine if the city was transferring its financial problems to the federal government.

The Court Decision

The U.S. District Court Judge hearing the case ruled in favor of AFSCME Local #78. The decision stated that the limitation on rehires was discriminatory because it prevented the fulfillment of the law's requirement that funds be distributed equally among the unemployed. Second, the limitation on recalls to ensure maintenance of effort by the city only had an impact on individual employees. It did not prevent the city from shifting job positions, filled with new employees, onto the PEP payroll. Finally, there was no evidence that the limitation would increase the hiring of veterans or other groups of unemployed workers, because no record was presented as to how many of the laid-off persons had characteristics favored by the law. Therefore, the Court decided that the DOL went beyond its administrative authority in developing the 15 percent limitation on rehires.

Summary

Cleveland's financial problems resulted in layoffs of large numbers of city employees. The city used most of its first two PEP grants to restore cut services and to rehire city employees on layoff. The DOL, concerned because the city was not using PEP funds to provide jobs for the segments of the unemployed given preference in the EEA, limited recalls to 15 percent of the workers hired under the city's third PEP grant.

AFSCME local #78 feared the PEP grant would result in jobs going to new employees while union members remained on layoff. It filed suit in District Court to test the legality of the limitation on recalls. The major issue in the case was whether or not administrative rulings designed to effectuate the broad policy goals outlined in the EEA could take precedence over collective bargaining agreements. The court ruled that the DOL had overstepped its authority in making a ruling which discriminated against some of the unemployed and which did not ensure either maintenance of effort on the part of the city or a more equitable distribution of jobs among all segments of the unemployed. The Court ruling approving the use of PEP funds for recalls could have implications for other cities.

Some observors suggested that the Cleveland problem resulted from political differences rather than from labor relations issues. It was thought that the current Republican administration agreed to the 15 percent limitation on recalls because it wanted to avoid rehiring laid-off workers originally hired by the previous Democratic administration and that the DOL was sympathetic to the current administration's concerns. The judge in the case was one of those who saw this possibility: "Even a mildly cynical person would guess a new city administration would prefer to fill as many old employment positions as possible with new employees.

Others suggest that the new city administration's hostility to collective bargaining caused the problem. According to this analysis, AFSCME turned to the courts in order to get better treatment from the city rather than to express dissatisfaction with the DOL's ruling. Some DOL officials feared that although the case began because of poor labor relations between the city and the unions, it would result in a decision that would have a negative impact on the PEP program.[8]

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[7] The Public Employee, November,1972, p.12.

[8] Letter from A.A.Coghan, Regional Attorney, Department of Labor, to David O. Williams, Office of the Assistant Secretary for Manpower, Department of Labor, May 5, 1972.

DAYTON[1]

J. Joseph Loewenberg

The City of Dayton

The City of Dayton, Ohio, has a population of approximately one-quarter million persons. It is primarily a manufacturing center of basic materials and finished products, although the federal government employs a substantial number of area workers at Wright Patterson Air Force Base.

Dayton has a home-rule charter from the State of Ohio. The city is governed under a council-manager form of government. The council, the City of Dayton Commission, is composed of five commissioners. The city also has a three-member Civil Service Board in charge of appointments, promotion, layoff, and other personnel matters of municipal workers.

In mid-1971, the general economic situation of the Dayton area was bleak. Workers were averaging 10.5 fewer hours of work than a year earlier. Moreover, 7.7 percent of the labor force was unemployed, a higher proportion than at any other time in the recent past. Dayton thus gained the dubious distinction of having the highest rate of unemployment among Ohio's major cities.

The outlook for the immediate future of the economy did not bode well. National Cash Register had already transferred elsewhere large parts of its former Dayton production. The

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[1] This case was compiled from secondary sources only, according to the operating guidelines established by the funding agency.

Frigidaire Division of General Motors was in the process of taking similar steps. A series of large-scale labor strikes complicated the economic future.

The economic plight of the Dayton area was reflected in the city's fiscal situation. The city had experienced declining revenues and had been unable to gain additional moneys from taxes. Dayton had declared an austerity program in November 1970. As a result, 429 city employees were laid off between February and September 1971, over 30 percent of them after the start of the Public Employment Program (PEP). The reduction in services included police, fire, sanitation street maintenance and recreation. Among those laid off in September 1971 were 57 fire fighters.

Employee Organizations and Bargaining History

Although the State of Oh[illegible]as no legislation authorizing and regulating collective bargaining for public employees, Dayton has extended recognition to and bargained collectively with its employees for a number of years. The city has a labor relations specialist on its staff to deal with the employee organizations. Approximately 75 percent of the city's employees are represented by unions and covered by collective bargaining agreements. The principal unions are: (1) Dayton Public Service Union, Local 101 of the American Federation of State, County and Municipal Employees, AFL-CIO; (2) Dayton Fire Fighters, Local 136 of the International Association of Fire Fighters, AFL-CIO; and (3) Dayton Fraternal Order of Police. In 1971 the fire fighters represented 409 firemen, including

100 lieutenants, captains, and district chiefs. The Police represented 407 policemen, including 72 sergeants, lieutenants and captains. Both uniformed groups have had written collective bargaining agreements since at least 1968. The agreements for both police and fire fighters expired in December 1971; the agreements were extended on a day-to-day basis pending conclusion of negotiations for a new agreement. Other labor organizations representing municipal employees in Dayton include the Teamsters, Carpenters, Operating Engineers, and the Building Trades Council.

The PEP Project

The advent of the PEP program provided Dayton with an opportunity "to restore to a previous level of service selected programs of high priority" in police communications, fire fighting, rehabilitation of offenders, waste collection, park development and maintenance, recreation, and street cleaning."[2] The emphasis on restoration of services was stressed by the city and conveyed to the unions. The City of Dayton filed for initial funding of $186,040 (20 percent of its allocated share of Section 5 funds) on August 23, 1971. The jobs listed in the initial application were for 9 laborers, 3 equipment operators, and 19 fire fighters.

The city's application for full funding on September 7, 1971, re-emphasized the priorities in ennumerating the 90 jobs to be available under the PEP program: 42 fire fighter jobs in the fire department, 13 communications and clerical jobs in the police department, 1 clerical job in the law department, 22 jobs (laborer, building attendant, golf handyman, etc.) in the human resources department , and 43 jobs (waste collector, auto mechanic, laborer, building attendant, etc.) for the service and buildings department.

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[2] City of Dayton, Application for Full Funding, September 7, 1971.

The city announced its employment intentions by specifying in its application:

> The employees to be hired under this Act will be former City Employees who were laid off as a result of the austerity program which has been in effect in the City of Dayton since September, 1970. The employees will be recalled on a seniority basis, and according to labor agreements and the Civil Service rules and regulations, with those having the most seniority being recalled first.[3]

The seven unions representing city employees were notified of the city's application for full funding on August 30,1971. They were asked to submit comments to the city by September 9 if the comments were to be included in the application or to the Chicago regional office of the U.S. Department of Labor between September 9 and September 25, 1971.

Additional funding for the Dayton PEP program was made available in October with the release of Section 6 funds for severely depressed areas. The city received $338,600 in federal funds for 33 jobs, of which 10 were community service officers, 4 fire fighters, and 14 laborers. The methods of recruitment and selection mentioned in the earlier application were also included in this one. The employee organizations previously contacted about the city's Section 5 application were notified of the Section 6 application and were sent the proposal for comment on September 30, 1971.

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[3] City of Dayton, Application for Full Funding, p. 17.

The city quickly filled the 123 slots available under Sections 5 and 6 of the PEP program authorized for Dayton. All but three of the jobs were recalls of former city employees who had been laid off. Fifty-two of the 57 fire fighters laid off in September were rehired under the PEP program after 30 days of layoff. These included a number of minority group members, welfare recipients, and/or veterans of the Viet Nam war; none of those hired, however, could be classified as disadvantaged.

The city continued to experience fiscal difficulties. At the end of 1971 the city found it had collected $1 million less in revenues than a year earlier. An attempt to gain more taxes by increasing the income tax was defeated for a second time in December 1971. The authorities therefore decided on a $1.4 million cut in the 1972 budget, including layoff of an additional 47 city employees in early 1972. The largest single source of saving was to be the elimination of one fifteen-man fire crew. These decisions set the stage for major union protests in the PEP program in Dayton.

The layoff of regular city employees brought to light the problem of defining the position of PEP participants. The problem was magnified by the existence of civil service regulations and provisions in collective bargaining agreements between the city and its employees which required that layoffs in affected areas be in order of least seniority. The collective bargaining agreement did not specifically include seniority but referred to the civil service regulations as follows:

> This Agreement is subject to all existing State Laws, Civil Service Rules and Regulations, Municipal Charter Provisions, City Commission Ordinances and Resolutions; provided that should any change be made in any State Laws, Civil Service Rules and Regulations, Municipal Charter Provisions, City Commission Ordinances and Resolutions which would be applicable and contrary to any provision contained herein, such provision herein contained shall be automatically terminated and the remainder of the Agreement shall remain in full force and effect...[4]

Enforcement of the existing civil service regulations would have meant the layoff of PEP participants. Regular city employees could not bump immediately into PEP positions because PEP program rules required city employees to be laid off at least 30 days before being eligible for a PEP job. Even then a serious question would be raised if the city were violating the maintenance-of-effort requirement. On the other hand, to lay off regular city employees while PEP participants continued to work (even for the 30 days in which regular city employees were gaining eligibility to participate in the PEP program) would have violated the civil service and collective bargaining regulations. The only feasible solution seemed to be for the city to lay off the regular employees and all PEP participants with less seniority than the regular employees, keep the PEP positions vacant for 30 days, and then fill the vacant PEP positions with the laid-off regular city employees and the laid-off PEP participants in order of seniority. This solution would have required laying off about 100 PEP participants and keeping the jobs unfilled for 30 days. The solution was unsatisfactory, especially to the PEP administrators in the U.S. Department of Labor.

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[4] Article XXII.b. of Agreement between City of Dayton and International Association of Fire Fighters, Local 136, December 29, 1970 to December 26, 1971.

The Civil Service Board was willing to amend its Regulation 24 to permit retention of the PEP participants during the 30-day waiting period of laid-off regular city workers, with the understanding that the regular city workers would then bump the most junior PEP participants. An amendment to civil service regulations to effect the above plan was presented to the City Commission on January 5, 1972. Union protests forced the Commission to table the proposal for a week. During the interim, representatives of the U.S. Department of Labor met with union officials in the city to enlist support of the civil service amendment. The Civil Service Board also asked the city to negotiate the change in regulations with the unions. When the city asked the unions to waive voluntarily their seniority rights, the unions refused.

The City Commission did not approve the amendment to the civil service regulations the week of January 12th. Instead, the Commissioners decided to ask the unions to do without previously bargained pay raises in order to provide sufficient funds to avoid any layoffs. In this way, the Commissioners hoped to finesse the entire layoff-recall problem. The hope was in vain; the unions rejected the Commission's proposal. The city once again had to face the problem of layoffs in 44 regular city jobs.

On February 9, the City Commission passed the resolution to waive the civil service regulations with respect to seniority in layoffs under certain conditions. The purpose of this waiver was to permit PEP participants to continue their employment during the 30 days it would take laid-off city workers to accumulate eligibility for PEP employment; following the 30-day period, the laid-off regular workers would bump the PEP hires and themselves enroll in the BEP program. The AFL-CIO city council as well as the United Auto Workers were reported backing the city in this matter.

The three major public employee organizations in Dayton (FOP, IAFF, and AFSCME) immediately filed legal suit against the city to prevent the Commission's resolution from being implemented. The suit in U.S. district court charged the city with violating due process under the city's civil service regulations and with violating the U.S. and Ohio constitutions. The unions were primarily concerned with protecting their seniority rights in layoffs.

A secondary issue was whether laid-off employees could be recalled to PEP jobs if they did not meet the residency requirements of Section 6 jobs. The U.S. Department of Labor had previously agreed to the city's request to combine Section 5 and 6 jobs in this instance to allow all laid-off regular employees to be recalled to PEP jobs, whether or not such employees lived in areas designated under the Section 6 grant. The unions were given assurances to this effect. The basic problem of seniority rights remained unresolved.

The city's initial reaction to the court suit was to delay the layoffs of regular city employees pending the outcome of the suit. Two days later, however, the city manager decided to proceed with the layoff of 40 employees, including 15 fire fighters and 2 police officers.

At the following meeting of the City Commission, the city manager proposed three emergency ordinances:

1. A prohibition of strikes by city employees, with penalties for offending individual strikers and their organizations;

2. Resolution of agreement disputes through mediation and binding arbitration; and

3. Elimination from the bargaining unit of officers in the police and fire departments.

The city manager justified his request on the grounds that the FOP's actions in breaking off contract negotiations "exposed the city to possible deterioration of services." The proposals were opposed not only by the public employee organizations affected but also by the AFL-CIO District Council. The strike prohibition was regarded as unnecessary because Ohio's Ferguson Act already prohibited strikes and the FOP had already guaranteed the city it would not support strikes or work slowdowns by its members. The elimination of supervisors from the bargaining units would cost the protective service organizations 172 members as well as much of their experienced leadership. Despite the opposition, the Commissioners unanimously passed all three ordinances.

Union reaction to the labor legislation included a meeting sponsored by the AFL-CIO, a mail vote by the fire fighters to authorize union officials to call a strike whenever they deemed it appropriate, and the threat of court action by the police.

Meanwhile, the court proceedings began on the unions' suit to restrain the city from laying off city employees while PEP participants with lesser seniority continued to work. The judge hearing the case remanded the issues to the city and the union for continued negotiations, suggesting he might order arbitration if the two sides could not agree on a settlement. To the judge's mind, the problem was primarily one of labor relations, not a legal question. The judge also chastised the city for failing to answer the suit. But the judge's suggestion for bargaining produced no different result than the previous attempts.

Another suit was filed in the court of common pleas on behalf of ten of the fifteen firemen who received notice on February 17 that they would be laid off on February 25. The suit requested a preliminary and permanent injunction to prevent the layoffs while 52 fire fighters with lesser seniority were retained; the 52 fire fighters had all been employed under EEA funds. The city answered the suit by claiming that its actions regarding the layoff of firemen was covered by its home rule authority. It maintained that a restraining order would cause much more irreparable damage to the city than the absence of such an order would cause the plaintiffs. The city would be forced to layoff an additional 52 workers, would suffer a severe loss in fire protection, and would place itself in danger of losing continued federal funding of the entire PEP program. On March 1 the request for the injunction was dismissed on the grounds that "there existed an adequate remedy at law."

An appeal was filed two weeks later with the Court of Appeals of Montgomery County, Ohio. The appellants based their case on two propositions. First, municipal laws are subordinate to the state constitution and state statutes governing working conditions of municipal employees. Second, an injunction would be appropriate relief to the complaint. Appealing to the Dayton Civil Service Board would be useless since it was a party to the case and had been instrumental in altering the established layoff procedure. The city defended its action and the lower court's ruling by the same line of reasoning it had employed previously. Besides citing its home rule authority, the city maintained that the state constitution neither specifically mentioned nor implied the protection of seniority rights. Such rights were therefore a matter of municipal concern and regulation. One new argument introduced formally by the defense at this step was that the fire fighters hired with PEP funds were in a separate job category ("fire fighter EEA") from regular fire fighters. The PEP participants had been hired on the basis of prior experience and not through normal competitive civil service examination. One of the qualifications for their employment was that they had not been on the city payroll in the previous 30 days. Moreover, they were being paid from different funds than regular fire fighters. Direct comparison between the two categories was invalid. Thus the seniority rights or regular employees involved had not been violated.

The three-member panel of judges of the court of appeals issued a unanimous decision in favor of the laid-off fire fighters on May 2, 1972. In part, the court reasoned as follows:

> ...the city...must not deprive plaintiffs of their vested legal rights. It is our opinion that the attempted amendment or revision of Rule 24 would do so. Earned and vested seniority rights are a vital part of the contract between the defendant city and the plaintiffs. No state, much less a municipality within a state, may pass any law impairing the obligation of contracts, including contracts of its own...The plaintiffs have a contractual right, which is enforceable, and which is the object of Constitutional protection.[5]

Within a week, the City of Dayton had filed an application for reconsideration of the decision of the Court of Appeals. The city charged the court with interpreting the issues too broadly, reading into the concept of seniority property rights that were counter to legal doctrine, and betraying personal feelings in rendering its opinion. The Court of Appeals refused to reconsider its decision.

The city then appealed the case to the Supreme Court of Ohio. By early November 1972, the Court had not yet rendered a decision in this appeal.

Meanwhile, about March 27, the city had recalled to PEP all 22 city employees (15 fire fighters and 7 laborers) who had been laid off a month earlier. Because of three existing vacancies in PEP laborer jobs, only 19 PEP participants were actually bumped by the recall. Three of the four bumped PEP laborers went into regular city employment, while the fourth was subsequently placed in another PEP opening. Of the 15 bumped PEP fire fighters, 9 went into other full-time employment, two accepted fire fighter jobs in other cities, one was employed in a regular job by the Dayton Parks Department, and three still remained unemployed a couple of months later.

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[5] Robert E. Haught, et al, vs The City of Dayton, Ohio, et al. Case No. 3949, Court of Appeals of Montgomery County, Ohio, May 2, 1972, p. 4-5.

Hiring the laid-off regular city employees into PEP positions complicated the situation for the city. If the court upheld the appellants' claims, the city not only would be forced to find funds to cover wages and benefits for the period of the layoff but also could be questioned if these workers were ever unemployed and hence eligible to be paid with PEP funds. The national PEP office of the U.S. Department of Labor recommended that the city be extricated from part of this dilemma by reasoning that the city could not be held financially responsible for retroactive disqualification of participants. PEP funds could be used to pay wages of participants until they were disqualified. However, the city would be required to end the employment of the plaintiffs in the PEP program and would have to find its own means to pay for the 30 days' lost time. Of course, all PEP participants with lesser seniority would also need to be laid off if the court ruled in favor of the plaintiffs.

A second emerging problem confronting the Dayton program concerned the nature of the population being served and the type of jobs being offered. The PEP administrators in the national and regional offices determined that the Dayton project did not follow program guidelines: the participants did not contain a sufficient proportion of Viet Nam veterans, minority group members and disadvantaged persons, and the jobs did not lead to permanent job opportunities. The city claimed that collective bargaining agreements required PEP openings to be offered first to those on layoff. The PEP administrators did not accept the city's claim:

> To the extent that these requirements can be met within the scope of the city's bargaining agreements with the Unions, we encourage the city to honor its unión commitments. However, if these requirements conflict with Union agreements, the PEP requirements must take precedence. This is in accord with the EEA Act which requires that Program Agents honor existing contracts for service (e.g. agreements to have specific work performed by contractors), but makes no reference to collective bargaining agreements. A collective bargaining agreement is not a contract for service.
>
> If, because of its union agreements, the city cannot fulfill the intent of the Public Employment Program, we will be forced to find a new Program Agent (probably Montgomery County) to service the unemployed residents of Dayton.[6]

The threat of the PEP administrators forced Dayton to restructure its PEP program to ensure that half of PEP participants would be moved into unsubsidized employment and that prior to the conclusion of the next grant year not more than half of PEP participants would be recalled regular city employees.

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[6] Memorandum, June 8, 1972, William Mirengoff, Director, PEP, to Commodore Jones, Acting Regional Manpower Administrator, Region V.

Summary

Unions affected the implementation of Dayton's PEP program in two ways. Initially, the unions pressured the city to recall laid-off employees to PEP jobs even though these employees did not always meet the eligibility requirements of the program. Subsequently and more significantly, the unions objected vehemently to city plans for laying off regular city workers while less senior PEP employees remained on the job. Even though the city had strong support from the U.S. Department of Labor, the unions carried the issue of relative seniority rights of the two groups of employees to the courts.

Existing collective bargaining provisions were the bases for the unions' contentions in both instances. The difference in consequences for the PEP program was the willingness of the city and the national PEP administration to accept the unions' position in the first case but not in the second.

The implementation of the PEP program coincided with prolonged and tense collective bargaining negotiations between the city and the uniformed forces. Events surrounding these negotiations may well have affected union perceptions of city moves in the PEP program.

It remains to be seen what union reaction will be to the change in the PEP project enforced by PEP administrators on the City of Dayton for FY 1973.

DETROIT

Edward C. Koziara

City of Detroit

Detroit, the auto-making center of the United States, has a population of almost a million and a half. The city has two major industries: transportation equipment and primary and fabricated metal manufacture. Other important sources of employment are non-electrical machinery, construction, chemicals, petroleum, and the service sector.

The city's last prosperous economic year was 1968. The Michigan State Employment Service estimated conservatively that unemployment in Detroit in 1971 was above 11 percent. The situation did not improve significantly during the first half of 1972. The City of Detroit's Commission on Community Relations found certain groups bearing a disproportionate share of the city's unemployment. Forty-five percent of the unemployed were concentrated in Detroit's depressed subcommunities. Young workers, between 18 and 21, constituted 23 percent of the total unemployed; workers 45 and older, 21 percent. Persons from families with incomes below the poverty level were 22 percent of the unemployed; one-fifth of all Detroit families were living in poverty. Women constituted 46 percent of the unemployed, and recent Vietnam veterans a third of the unemployed. Sixty percent of the unemployed were racial minorities. The number of Detroiters on public assistance in June of 1971 was 161,406, an increase of 30.5 percent in 12 months.

Detroit has had severe financial problems. The city has been faced with the problem of providing more and more services with a tax base that has not been expanding at a similar rate. Detroit's 1972 budget provided for expenditure of $600,000,000. The deficit was projected to fall between seven and thirty million dollars. City employment has been reduced since 1968. Layoffs took place in 1971 and 1972. Many employees who quit or retired have not been replaced. Besides an austerity employment program, the city has induced other levels of government to take over city functions, such as meat inspection, welfare, and mental health. The city has also contracted out work, such as some trash hauling, that used to be done by city employees.

Detroit has a strong mayor system. The Detroit Common Council is primarily a legislative body with few administrative duties.

Employee Organizations and Bargaining History

Detroit extended voluntary recognition to unions prior to the state's enabling legislation. The 17 recognized unions presented their demands in council hearings. Although the process did not result in tracts, memos, or letters, some of the unions were given the checkoff.

Michigan's Public Employees Relations Act of 1965 authorizes collective bargaining for all local employees, requires the parties to negotiate in good faith, and stipulates that negotiations produce signed agreements. The Michigan State Labor Mediation Board determines exclusive representatives.

As a result of the passage of the act, the city formalized its collective bargaining machinery by establishing a Labor Relations Bureau for city employees' collective bargaining. Over time, the Bureau has evolved to an efficient management bargainer. It now has professional staff and leadership.

In the mid-sixties it looked as though the Teamsters and the American Federation of State, County and Municipal Employees (AFSCME) would divide Detroit's 23,000 workers. However, this was not to be the case. Detroit deals with 42 local unions, including the Teamsters, AFSCME, the Detroit Police Officers Association, the Fire Fighters, the Transit Union, Operating Engineers, the Detroit Building Trades Council, and the Building Service Union. Additionally, many of the unions engage in multiple negotiations for numerous bargaining units.

The City Labor Relations Director is authorized to negotiate and recommend ratification. After the conclusion of negotiations, the tentative contract is sent for comment to department heads. Civil Service must also approve the contract. It is then checked for legal format by the corporation council. Finally, the contract goes to the mayor and then the Common Council.

The city in the past has sacrificed seniority provisions and other low cost items in order to hold down the cost of public service.

Union political pressures on the mayor and the Common Council have historically been important in Detroit wage determination. The unions offer large political contributions and engage in precinct work. The unions have also been able to go around the Labor Relations Director and directly pressure the mayor. With the appointment of a new Labor Relations Director and the increasing seriousness of Detroit's fiscal plight, there are indications that the office of Labor Relations Director has become less susceptible to union political maneuverings.

The police and fire departments are fully organized. The differences between the two departments are the number of units and representative employee organizations. The fire department is a single unit organized exclusively by the International Association of Fire Fighters. The police department, on the other hand, is fragmented into four units represented by four separate organizations. The most politically powerful of the four groups is the Detectives Association. The largest is the patrolmen's group, the Detroit Police Officers Association. There is a separate Lieutenants and Sergeants Association, and AFSCME represents the fingerprint technicians.

AFSCME District Council 77 received its charter in 1950. The 14 local unions of the Council which negotiate with the city represent 9,200 members out of a total city work force of 23,000. Both blue and white-collar workers in various city departments are represented by AFSCME. A large number of members are black. AFSCME's leadership includes former militant CIO industrial union types, who feel that the union is in the same boat today as the CIO was in the 1930's. Although AFSCME is a politically powerful and militant union in its dealings with the city, it has had to fight its battles alone. The United Auto Workers, the principal labor organization in Detroit, regards AFSCME with hostility because it gouges the UAW's taxpaying members.

Another very important public employee union in Detroit are the Teamsters, who are considered to serve their membership well and are a recognized political force.

The PEP Project

The City of Detroit was the only PEP program agent in the area served. It designated the Detroit Board of Education as a sub-agent. By mutual agreement, the Board of Education was given 25 percent of the allocated funds. In time, the PEP project in Detroit was allocated 20 million dollars.

Detroit gave priority in its project to police, health, education, fire safety, public transit, housing, recreation, and public works. In determining jobs for the project, both the city and the school board considered criteria of size, budget and ability to utilize non-professional personnel. On August 19, 1971, the city filed for initial funds. Of the approximately 1,350 jobs listed, half were in four classifications: teachers, junior clerks, junior typists, and patrolmen. The remainder were widely scattered and included clerical, custodial and maintenance, guards, aides, and professional titles. Modifications were later made to this list. In the first year of the project over 2,000 jobs were created.

The designing of the Detroit PEP project at first appears to be hasty, if not haphazard. The Detroit people responsible for the program were called to the Chicago Regional Office of the Department of Labor on August 13, 1971. They were told they had to submit a plan on the 18th. The Assistant Comptroller, the Manpower Coordinator, the PEP Project Head and others quickly put a plan together at Midway Airport.

The PEP Project Head, who also had a background in the Detroit Civil Service, was recruited from the Public Service Careers Program (PSCP). This earlier program utilized public employment job opportunities to provide on-the-job training and supportive services for the disadvantaged in federal, state, or local government, in private nonprofit agencies, or in agencies that receive federal grants-in-aid. The Project Head had been detached from responsibilities with PSCP shortly after President Nixon signed the Emergency Employment Act. When he attempted an inventory of needs among department heads, he was faced with two problems. First, the department heads were concerned that the PEP program was designed for disadvantaged "funny people," who would foul up their organizations. Secondly, with the mayor's plans for a personnel layoff already in the wind, the department heads could see no sense in submitting requests for new people who would be shortly terminated.

In developing the plan, the PEP Project Head and others attempted to anticipate problems that might develop with the unions, particularly with AFSCME, the most militant union. In deference to potential problems the city decided not to fill higher positions; indeed, all but a few PEP positions were at the entry level.

Shortly after the initial plan was put forth, a more orderly procedure was developed for department heads to submit requests to the PEP Project Head. Final approval was given by the Mayor's office and the Comptroller's office.

The city, in August 1971, met with AFSCME, the Building Service International Union, the Building and Construction Trades Council, and the Teamsters. The unions were told they had three days to file a letter of intent to comment on Detroit's PEP proposal and fourteen days to comment on the proposal itself. None of the unions filed formal comments.

The fire fighters were not asked to comment because the fire safety jobs requested involved callbacks. The police were not asked to comment because the police jobs of Patrolmen Trainees were not covered by union contract.

Although AFSCME did not file formal comments on the PEP project, it was openly leery of the program. Three meetings between the city and AFSCME were necessary to reassure the union that PEP would not be used to the disadvantage of regular city employees. The first two meetings were described by the city as non-productive. The union appeared to be "beating around the bush." The City

Manpower Director, exasperated by the union in the third meeting, reportedly said, "What do you people want?" The union responded, "Are you going to honor the contract?" The city agreed that it would. At another point in these meetings a city spokesman warned AFSCME that if it did not cooperate with the city, Detroit would withdraw its request for AFSCME-covered jobs and file for other positions. AFSCME was told the program was in its interest because of the increased membership.

The prime reason for the suspicion of the union was circulation of a letter from the international union warning District Council to be cautious in dealing with PEP proposals. District Council 77 was especially concerned that PEP people would be given preferential treatment over regular city employees and that the project would include above entry-level jobs. The city assured the union it had no basis for concern.

PEP Hiring Delays

Detroit submitted a proposal for full funding on September 10, 1971. Modifications were completed by September 16. Final funding was delayed when the City of Detroit requested a waiver of its 10 percent in-kind contribution. The city's posture was predicated on a fiscal deficit of $26 million dollars and on EEA Regulations Section 55.16d of Title 2, "Non-Federal Share." Under this section, the Secretary of Labor may waive the requirement for the non-federal share if the Program Agent presents clear-cut documentation of inability to operate the program without such waiver. The Department of Labor's Chicago Regional Office Staff was dispatched to assist the city's budget staff to identify sources of in-kind contribution. Although only $1,280,350 was needed to satisfy the Department's requirement, the staff identified $1,858,420 which was duly documented and added to the proposed amendment. The Regional Manpower Administrator on October 22 approved Detroit's Section 5 full-funding amendment. This package was approved by the Detroit Common Council on November 10, 1971. The Section 6 grant for Detroit was executed on October 31 with an effective date of December 15, 1971.

The recruitment process for PEP participants had begun in late October on the basis of verbal assurance from the Department of Labor that the full funding modification was approved. Subsequent delays in the hiring process occurred in the Civil Service Commission, the Certificates Division, and normal hiring procedures.

The Detroit Manpower Planning Office had hoped initially that reasonable quotas could be assigned to the city's recruiting sources to expedite the processing of written examinations and oral interviews. The Civil Service Commission took the position, however, that the City Charter required that examinations be open to all citizens without restrictions. This meant, in effect, that employed as well as unemployed persons were applying, taking the written examination, and, if successful, being interviewed. Of course, the city was financially unable to hire many persons ineligible for PEP.

Moreover, the Civil Service Commission was understaffed both in examiners and in clerical personnel. The consequent influx of over 5,00 applicants quickly paralyzed the normal Civil Service processing. As this became obvious, efforts were made to increase Civil Service personnel through the hiring of PEP participants as clerks and typists. At this point, the Commission still hoped to maintain the normal processing procedure to insure that successful candidates met the regular standards of their job titles. The Commission's attitude was based on the federal stipulation that participants be hired at the prevailing rate and that a percentage be eventually retained on local funds.

Further delays in hiring successful eligibles occurred in the Certification Division. Because examinations were open to all citizens, the Certification Division had to ascertain which of the successful applicants were eligible for PEP. This necessitated sending out a questionnaire and, upon return of this form by the applicants, notifying the PEP eligibles to report for the hiring procedure - medical examination and preparation of employment papers. This procedure resulted in at least a minimum of an additional week's delay in hiring each person. Additionally, a number of persons did not respond to the hiring letters and could not be reached by phone. Finally, it should be noted that one department, which was committed to hiring 220 participants, wanted to hire at the rate of 20 persons a month to allow its small training staff sufficient time to work with the new hires.

To overcome the delays in hiring, the city modified the selection and certification process to eliminate delays. The modification followed substantial pressure from the Department of Labor in the form of a threat to cut off funding. By January 31, 77 percent of the total hires were on board. Shortly thereafter the city went to over 100 percent in order to compensate for the early delay.

AFSCME claims the union exerted pressure on the mayor to get the program underway. The union wanted the program, especially since it provided minority job opportunities. The union felt the mayor wanted to time PEP participation with a city layoff so that federal funds would replace city payments. The city has denied the union's claims.

Cooperation with the Unions

In January 1972 Detroit was undergoing a fiscal crisis; a deficit of 30 million dollars was projected for the fiscal year ending June 30, 1972. In order to cut the deficit, the mayor decreed a cost reduction program with a minimum cutback of 5 percent assigned to each department.

The U.S. Department of Labor was informed that between 1500 and 1800 city employees would face layoff. As of this time, about 1,000 PEP personnel had been hired by the city. The impending layoff threatened to fall heavily on these recently hired PEP participants.

The Department of Labor's Regional Representative wanted to restrict layoffs to departments which had small numbers of PEP participants. The mayor wanted PEP funds to maintain employees on the payroll. He asked the presidents of the Teamsters and AFSCME to accompany him to Washington to persuade the Secretary of Labor to waive the 30-day requirement between layoff of city workers and their enrollment in the city's PEP program. The union representatives accompanied the city delegation. The Secretary would not grant the waiver. The mayor and union representatives called upon members of Michigan's Congressional delegation to assist in their cause.

Although the waiver was not forthcoming, the number actually laid off was 250 regular employees and 109 PEP employees. The city and the Department of Labor agreed that PEP employees would be laid off only in the same title and in the same department as regular employees who were being laid off. Otherwise, city-wide seniority bumping would have resulted in many more PEP layoffs. Detroit agreed to provide jobs on the regular payroll by June 30, 1973, for 50 percent of the laid-off city employees rehired under PEP. The laid-off city employees collected compensation under a special city plan. The Department of Labor agreed that after thirty days of layoff, Detroit would rehire all regular and PEP personnel under the PEP contract.

Although pleased with the rehiring agreement, AFSCME was adamant that the layoffs were false economy and contributed to deteriorating city services. The union, however, believed the mayor would have slashed the budget if he had not worked out the arrangement with the Department of Labor. The union cannot visualize how 50 percent of those rehired under PEP can become permanent employees since the city continues to contract work out and fails to replace workers lost by attrition. Finally, the union feared further layoffs.

Grievances

AFSCME has filed grievances on behalf of members who claimed that PEP personnel were being given jobs above the entry level. None of these grievances had gone to arbitration as of July 1972. Some had been settled at low levels, while others were still pending.

AFSCME and the city have settled grievances by allowing the aggrieved employee to fill a position comparable to that held by the PEP employee. For example, Detroit's art museum was only partially open to the public because budget slashing had reduced the number of guards. The city regarded guards as an entry-level position. However, a museum cleaning woman complained she was entitled to bid on the job. The city acquiesced to the grievance by promoting her to that position.

In another case, a typist was hired under PEP as a senior clerk. The distinction between senior clerk and clerk is one of experience, and people may be hired at either level. With an unemployment rate of over 11 percent, the city had many applicants for PEP jobs more qualified than regular city employees. The resulting complaints were resolved either by the regular clerks being promoted to senior positions or by city assurances that such clerks would be promoted when they qualified for the senior clerk position.

The Future

The city's unemployment and financial situation in mid-1972 was similar to that at the inception of the PEP project. The major difference was that about one-twelfth of the city's personnel were funded by PEP. If the program were to cease without other outside funding sources, few if any PEP participants would become permanent city employees.

One important program relating to PEP that will face the city in the future comes not from union initiative but may affect unions. The project's Equal Employment Opportunity Officer in a letter and report dated July 7, 1972, pointed to inequities in PEP hiring and proposed an affirmative action plan. The EEO Officer argued that Department of Labor guidelines call for significant segments of the population (women, minorities, older workers, veterans) to be hired in at least the same proportion in which they exist in the unemployed population. An analysis of total Detroit PEP hiring by population categories and by various job classifications revealed that significant segments were under-represented as recalls, new hires, or total hires. To avoid inequitable concentrations of significant segment members in lower level jobs, the EEO Officer called for percentage goals for each significant segment to apply to each job category. She also devoted special attention to recruitment, selection procedures, entry levels and job series.

Unions were specifically mentioned in the entry levels and job series section:

> A third factor that may be contributing to underutilization of minorities in certain jobs series is unnecessarily high entry requirements. Often there are no minority applicants in certain job series because very few minority or other significant segment applicants have been permitted to secure the specialized training required for the entry level. Building tradesmen categories which draw from members of restricted unions are examples of job categories for which most minority applicants cannot be qualified. The Technical Aid job category may be another. If the knowledge tested by the Technical Aid examination is in fact critical to adequate job performance for the Technical Aid positions, perhaps that category is too advanced to be an entry level category. A lower level category with fewer technical qualifications, a less rigorous entrance exam, and provision for on-the-job training would provide minorities who have not had the opportunities to acquire certain types of technical training with an avenue into job series that would otherwise be closed.

The city through the PEP program was being asked to structure job series to allow minority applicants to move into jobs denied them by the restrictionist building trades unions. The strategy employed by the EEO Officer was to use the PEP program as a wedge to assure equal employment representation in all, not just PEP, job categories.

Two implications follow from this report. First, the PEP program may be used to put workers in training categories for employment now denied them by the construction trades unions. Second, profound problems could occur if segments were to be represented proportionately at all job levels. Promotions and transfers are all dependent on seniority, ability, and the worker's desire for change.

Summary

The financial squeeze faced by the city, not union impediments, was the major cause for the slow start of the PEP program in Detroit. First, the City of Detroit wanted to get the 10 percent non-federal share waived. Secondly, the Civil Service, partially because of lack of personnel, was unable to process PEP hires in a rapid manner.

Lack of opposition to the program by uniformed employees can be explained by their desire not to have layoffs. The fire fighters benefitted from PEP through recalls. The police did not complain since they face substantial turnover because of retirement and changing residency requirements.

The non-uniformed employees' unions did not impede the Detroit program. Although AFSCME initially raised questions concerning the intent of the city toward the unions, these were easily settled.

AFSCME and the Teamsters cooperated with the mayor in attempting to secure the 30-day waiver between layoff and reemployment for regular city employees. Both the city and the unions were enthusiastic about the program which provided funding for about a twelfth of the city's labor force.

The union grievances involving PEP hires were largely the kind of complaints that could have developed in the absence of the program.

Future problems may arise if the city goes ahead with a quota system by job classification for members of special groups. Civil Service regulations and procedures would have to undergo substantial change. It is difficult to perceive the unions accommodating their members to the kind of package proposed by the Equal Employment Opportunity Officer for Detroit's PEP program.

LANSING

Edward C. Koziara

The City of Lansing

Lansing, the capital of Michigan, has a population of 131,546. The labor force is employed in three major industries: (1) education, because Michigan State University is located in East Lansing; (2)government, with the State of Michigan as the major public employer, and also federal, city, and county governments providing jobs; and (3) auto, since Oldsmobile, Fischer Body and other auto-related plants located in Lansing provide significant employment to the city's labor force.

The unemployment rate in 1971 and 1972 hovered between 5.5 and 6 percent with the exception of the summer months when it had gone as high as 9.4 percent. The summer increase is due to (1) seasonal layoffs in the auto industry for model turnover in July and August and (2) an influx of young people into the labor market.

Unemployment falls disproportionately among various groups. Although only 9 percent of Lansing's population was black in 1971, 22.7 percent of the unemployed were black. One-third of the unemployed were women. Thirty-seven percent were under 22 years of age; 9 percent were 45 or older. Twenty-three percent were veterans. Cash welfare recipients numbered only 1,850, less than one percent of the city's population.

Excluding the Board of Education, the city employs 1,200 permanent workers. Lansing is a fairly prosperous community. It has never had to lay off city workers. The Lansing budget was balanced at 21 million dollars in fiscal year 1972. Although under Michigan law the city could legally increase property taxes, the administration felt that for political reasons it could not take such action.

Lansing has a weak mayor-strong council form of government. The city's candidates run as non-partisans. The current mayor has exerted a stronger presence upon the government than his predecessors. The Personnel Officer of the city exerts a very strong influence on not only personnel but also manpower policy and labor relations. He represents the city as chief negotiator in contract negotiations. Union comments and grievances concerning the PEP program fall under the Personnel Officer's purview. Although the city has a Labor Relations Supervisor, City Manpower Coordinator, and EEA liaison officer, it is the Personnel Officer who primarily deals with the unions and makes critical labor relations decisions.

Employee Organizations and Bargaining History

The city collectively bargains with three unions: the American Federation of State County and Municipal Employees, the Fraternal Order of Police, and the International Association of Fire Fighters. The Board of Education, a separate government entity, deals with a teachers' union and a secretarial association.

The police and fire departments are fully organized by their unions. Labor relations with the police have been godd, while relations with the fire fighters have been stormy. The personnel director believes the police have a more difficult task than the fire department. Fire fighters have received lower wages than police. The fire fighters fought to have parity with police placed on the ballot. It was, and they lost the referendum. The fire fighters have also conducted a strike against the city.

AFSCME was not recognized until Michigan's Public Employee Relations Act went into effect in 1965, when AFSCME replaced a weak Building Service Union. The first contract negotiations broke down in 1966 and resulted in a three-day strike. The relationship since that time has improved, but only slightly. There is, at best, grudging acceptance of the union.

AFSCME membership strength is subject to various estimates. Of 600 members in the bargaining unit, the union claims 400 employees. The city claims AFSCME has but 225 members. Union membership is concentrated in the blue-collar jobs such as sanitation, parks, and streets. Clerical personnel are not organized. The union may be undergoing internal stress. The city has claimed AFSCME bargained away some quasi-supervisory slots. A dissident group has threatened decertification. An unusually large number of grievances terminate in arbitration. The last contract was narrowly ratified. As in other Michigan communities, the political strength of AFSCME in the city is dwarfed by that of the United Automobile Workers.

The PEP Project

The initial application for PEP funding for fiscal year 1972 amounted to $884,710. The city as program agent asked for 73 jobs for itself. The three sub-agents requested an additional 34 jobs: Lansing School District, 27 jobs; Lansing Community College, 4 jobs; and Capitol Area Transit Authority, 3 jobs.

The key person in Lansing's initial application for funds was the Personnel Director. City department heads forwarded job requests to him and the Manpower Coordinator who decided the "real and vital" needs. These positions were mentioned casually as information when meetings were held with representatives of the affected unions.

The largest number of jobs in the city's PEP program were 14 police technicians, 21 laborers, and 10 tree trimmers. Five subsequent modifications expanded the number of jobs and somewhat altered the titles,but the initial application contained the classifications that provided the bones of contention between AFSCME and the city.

Although unions were informally notified prior to final packaging of the initial proposal, the city asked the unions for comments on September 10, 1971. AFSCME, FOP, and IAFF commented. The police and fire fighter comments referred to the 14 police technicians and 3 fire fighters. AFSCME commented on a total of 19 jobs in the Parks and Recreation Department (10 tree trimmers IIIA and 9 laborers IIB) and 14 jobs in the Public Service

Department (2 draftsman IIIA and 12 Laborers IIB).

The fire fighters' reply of September 24, 1971, raised a number of objections to the city's proposal. The positions were too few, and they were temporary rather than permanent. The waiver of lengthy oral and written examination procedures mentioned in the city's application for funding would not be necessary because such procedures did not exist. Restricting candidates to the Model Cities area was discriminatory. All veterans, welfare recipients, and minority members in the City of Lansing, the fire fighters maintained, should be given equal consideration along with all other unemployed workers. The comment also objected to the proposal language: "Where applicable, existing provisions of employee union agreements with the city shall provide the guidelines affecting specific rates of compensation." The union felt all provisions of the union agreements should have been made applicable. Specifically, the fire fighters believed the 30-day employment provision for city workers was unfair and violated existing union agreements. The union wanted any future laid-off city employees to be given preference in filling newly created positions.

The president of IAFF Local No. 421 made clear that his letter was neither in support of nor in opposition to the City of Lansing proposal. Rather, it reflected only his views on some of the provisions that might affect the members of his local.

In his reply of October 4, 1971, the president of Capitol City Lodge No. 141 of the Fraternal Order of Police emphasized that the program was primarily a city council matter and reviewed the program as it related to manpower utilization of the police department. A number of questions were asked of the Regional Manpower Administrator on topics of training, initial testing, selection guidelines, screening, dismissal, and the definition of special veteran status. Additionally, the FOP wanted to know why the Lansing Police Department personnel office was excluded from the hiring process. The letter expressed concern that persons hired under PEP might obtain preferred status over experienced police officers.

The FOP and IAFF comments were ignored by city officials. The Regional Manpower Office may have been unaware of the IAFF comment since it was sent to the city. In both cases, the unions' involvement with the PEP program stopped with the sending of comments. The FOP and IAFF did not take further action because the program did not threaten them. Only one fire fighter was eventually hired. The 14 police technicians were not regular policemen, although one later became a patrolman.

AFSCME attempted to meet with the city to discuss the contract proposal before submitting its comments. The city avoided a meeting until the day before the comments were due. As a result, the union submitted its comments too late for consideration and the contract was signed before they were reviewed.

After failing to get the city to adhere to their demands, AFSCME on September 29th wrote their comments to the Secretary of Labor, the city, and the Regional Manpower Director. The union maintained the 10 Tree Trimmers IIIA, 21 Laborers IIB, and 2 Draftsmen IIIA included in the PEP proposal were positions covered by the union's contract with Lansing and higher than an entry-level grade. The union contended that if the city intended to fill such classifications, either through filling budgeted positions or by creating additional positions within the classification, regular employees of the city should have the first opportunity to bid for these positions under the promotional procedures and/or transfer procedures; the ultimate vacancies created by the upgrading procedure should be filled by PEP hires. To do otherwise would be a violation of the contract and would create dissension between regular and new employees. The union maintained that the city's plan would not serve the purpose and intent of the Emergency Employment Act.

Unlike the uniformed organizations, AFSCME continued to press its position because it had numerous jobs in dispute. On November 30, the Secretary of Labor informed the union that he had received their letter of September 20. The Director of PEP told the union that the Department's regional office would obtain more information and the Department would then be in touch with the union shortly thereafter.

The city replied to AFSCME on October 26, 1971. The Personnel Director of Lansing said union comments should be transmitted to the Regional Manpower Director. "Unless and until the Department of Labor reacts to your comments, I feel it would be useless for the city and the union to schedule further meetings on the subject."

There was no further response, either from the city or the Department of Labor. The Department did not wish to become involved in a collective bargaining dispute. The philosophy of the Chicago Regional Office was to allow the parties to settle problems without Departmental interference.

AFSCME, unaware of this policy of benign neglect, attempted on at least five occasions between December 1971 and March 1972 to get movement from the Chicago office. None was forthcoming.

The union initiated a grievance concerning the PEP positions early in 1972. It did not receive any concessions from the city. The city regarded the grieved positions as ones which would not have existed without PEP funding and therefore not subject to negotiation. This view was reinforced by the Department of Labor's reluctance to become involved in the dispute.

On March 2, 1972, the Field Coordinator of AFSCME wrote to the Personnel Director calling attention to the Appeals Board meeting (the grievance step before arbitration), at which the union grievances concerning PEP were discussed. The union, after due consideration, decided to submit the grievance to arbitration.

However, the grievance did not go to arbitration. The union held back on pursuing a settlement because of the pending negotiations over a two-year contract and the participation, finally, of the Chicago Regional Office. The city claims it was at their urging that the Regional Office stepped in.

In an April 6th letter to the Regional Manpower Administration, the union restated its case. The letter read in part:

> We have found buckpassing in the case of the the City of Lansing, by both the Michigan Governor's Task Force and the Chicago Office.... The City of Lansing has taken the position in our discussions...that if they are violating the Act, the intent, or the spirit of the Act, that the Department of Labor would and should cut off the funds, but until the Department of Labor tells them they are violating the provisions of the Act, they absolutely refuse to do anything to correct the injustices that their actions have imposed upon our members.

A meeting to discuss and resolve the problem was arranged in Lansing on May 11, 1972. Present were Lansing's Manpower Coordinator, EEA Coordinator, the Personnel Director, Internal Auditor, and the Assistant Director of Personnel as well as the president of AFSCME Council 55, the chairman of the local AFSCME union, a representative from the U.S. Civil Service Commission, and two representatives of the Department of Labor.

At this meeting the Department of Labor notified the union, for the first time, that their comments were received at the Regional Office on October 1, 1971, six days after the due date for comment. The Department believed that the union, although procedurally incorrect, raised proper substantive issues.

The Department of Labor pointed out that it had no misgivings about the union's plans to take the matter to arbitration and that the Department would accept an outside opinion that was not contrary to the Act.

The representative of the U.S. Civil Service Commission presented alternatives to arbitration. The alternative most acceptable was to allow those PEP participants who were in the above entry-level positions to remain in them until such time as they become regular positions funded by the city. At that point the positions would be posted and union employees would be allowed to bid on them. The net result could be that PEP participants would be bumped downward into lower paying positions when the city assumed financial responsibility.

The meeting concluded when the city and AFSCME accepted this recommendation. A formal exchange of letters would document acceptance. It appeared the problem had been resolved.

On May 17th the Personnel Director wrote to the Union:

> In the event a layoff becomes necessary within the City's personnel, the existing conditions for such reductions, as provided for, in the then existing Union Agreement will be followed and the personnel employed within the provisions of the Emergency Employment Act will be laid off first.

On May 22nd, the union responded:

> Nothing in your communication reflects our agreement reached in your office on May 11, 1972 with regard to the positions the EEA personnel now fill. At the May 11th meeting, it was agreed that your office would post notices throughout the city, clearly setting forth our understandings. I remain awaiting the notification from your office that this has been fulfilled.

> Enclosed for your information is an arbitrator's decision with respect to an identical grievance in Rome, New York. I think you will find it most informative. It clearly indicates that our position is indeed valid with respect to the contract of the application of the EEA, if we should be forced to proceed further with the grievance.
>
> I would like to point out to you that we remain in the position of withdrawing the grievances provided the proper notice is posted setting forth clearly our understanding as per our agreement of May 11, 1972.

On May 23rd, the following interoffice communication was sent to all city departments by the Personnel Director:

> As requested by Walter J. Oliver, President of Michigan Council #55, AFSCME, AFL-CIO, we are posting the following provisions of the existing contract, Article VI, Section 5, regarding Layoff Procedure which also applies to the Emergency Employment Act personnel.
>
>> SECTION 5 - Layoffs and Recalls. The word "layoff" means a reduction in the working force due to a decrease in work. If it becomes necessary for a layoff, the following procedure will be mandatory. Probationary employees will be laid off first. Seniority employees will be laid off according to seniority in inverse order of seniority.
>>
>> Employees to be laid off for an indefinite period of time will have at least seven (7) calendar days notice of layoff. The Chapter Secretary shall receive a list from the employer of the employees being laid off on the same date the notices are issued to the employees.
>>
>> Subject to the definitions and procedures therein, a laid off employee shall be eligible for the benefits of Chapter 2, City of Lansing Code, "Layoff Benefit Plan", pertinent Sections of which are attached hereto as Appendix A.

Employees who work four (4), ten (10) hour days in lieu of five (5), eight (8) hour days for the completion of a forty (40) hour work week as elsewhere defined by this Agreement shall be deemed to have worked the 2,000 straight time hour requirement for the purpose of Appendix A only, if these employees have worked a minimum of 1,664 straight time hours during the 365 days immediately preceeding the first normally scheduled work day not paid after layoff.

When the size of the work-force is to be increased after a reduction-in-force, employees transferred during the layoff shall be transferred back to their original jobs to the extent practicable, and employees laid off shall be recalled in seniority order to fill the vacancies thus created.

Notice of recall may be given in person, by telephone, by telegram, or by registered or certified mail. In the case of notice given in the Chapter Secretary a written memorandum that it has given such notice. In case of notice given by telegram or mail, the employee's last address of record with the City shall be used.

An employee who fails to report for work when notified to do so in person or by telephone, by the starting time of his shift on the fourth (4) working day thereafter, or by the starting time of his shift on any later day on which he is instructed to report, shall be deemed to have quit, shall cease to have seniority, and shall have his name removed from the seniority list. An employee who fails to report for work after being notified by telegram or mail, by the starting time of his shift on the sixth (6) work day after the date such notice is sent, or by the starting time of his shift on any later day on which he is instructed to report, shall likewise be deemed to have quit and shall lose seniority. However, if an employee's failure to report for work is on account of illness or injury or other serious reason beyond his control, he may retain his

> seniority if he has notified the City's Personnel Director of such reason by telegram or registered or receipted mail, received prior to the deadline for his reporting to work. It is recognized that the City may require substantiation for the reason given by an employee. If it is not substantiated promptly upon request of the Personnel Director, to the satisfaction of the Personnel Director, the City may determine that the employee's loss of seniority shall stand, and the employee may appeal the City's determination to the grievance procedure, beginning in Step 3.
>
> An employee who is laid off for a period equal to his seniority at time of layoff, or for a period of five (5) years, whichever is the shorter period, shall cease to have seniority and his name shall be removed from the seniority list.

The communication said nothing about what would happen to PEP and regular employees if the PEP jobs became permanent.

AFSCME notified the Department of Labor's Contracting Officer for the Lansing project that the city's letter failed to take action promised in the May 11th meeting. On June 6th, the Contracting Officer wrote to the Lansing Manpower Coordinator that there was an "obvious deletion of the agreement between the city and the union" in the city's letter. He requested the city to advise his office as to its planned course of action.

On June 21st the Manpower Coordinator replied to the Contracting Officer and sent a copy of the letter to the unions. The reply said in part:

> Communication has been made with Mr. Bodwin, Personnel Director, City of Lansing. The City contends that it has complied with the agreement by the attached inter-office communication. The subject as defined in paragraph 2 of your letter is normal procedure as listed in the City-Union contract and therefore does not require any further action.
>
> In addition, the week of June 19th, numerous meetings had been held between the City and the Union on negotiation for the 1973 contract and there was no mention of the problem in any of the conferences. The City intends to take no further action.

The Personnel Director thought the union would bring the PEP positions into contract negotiations. He expressed surprise that they did not since the program was new and something about which the union would want to negotiate.

On July 20th the President of Council 55 wrote the Contracting Officer, "I was in hope that we had found a method of resolvement but, obviously, on the basis of the (Manpower Coordinator's) letter such hope no longer exists."

On the same day the President of Council 55 also wrote to the Lansing Manpower Coordinator:

> You make mention in your communication of June 21, 1972, of an inter-office communication of which I have a copy. That inter-office communication deals solely and exclusively with layoffs and recalls and is, in fact, a part of our existing contract between the City of Lansing and the Union. You then follow that by saying that the issue at hand (stated very clearly in the second paragraph of the Contracting Officer's communication to you dated June 6, 1972) is normal procedure as listed in the

> City-Union contract and therefore does not require any further action. Further, that the City intends to take no further action. This therefore leads me to believe that contrary to our discussions in the past, the City obviously feels it has complied totally with the contract and that they do not intend to agree to put forth in writing "that all EEA participants who are presently in above entry-level positions in the City's EEA grants will remain in them until such time as they become regular positions that are funded by the City. At that point the positions will be posted and the union employees will be allowed to bid on them in accordance with the contract." Further, that EEA participants could be "bumped downward to lower-paying positions when the City assumes financial responsibility for the positions."
>
> I think it highly regrettable that the City of Lansing has taken the positions indicated in your June 21st communication to Mr. Smith especially so in the light of the agreement that was reached after considerable discussion in the offices of the Personnel Director of the City of Lansing. You leave this Union in a position of having now to file grievance and processing it to the fullest extent; and further, we intend to communicate with the U.S. Department of Labor as to the lack of good faith on the part of the City of Lansing and urge that any future grants or payments be withheld until the City of Lansing agrees in writing to the spirit and intent of the Act.

The City of Lansing complied with the May 11th agreement in September 1972. Explanations for the City's belated behavior may be found in a feeling that the City would lose the arbitration, especially in view of the Rome, New York decision and in a fear that continued union opposition would halt further funding of the PEP program in Lansing.

Summary

The only serious union involvement in the first year of the PEP program in Lansing was provided by AFSCME. The union's initial suspicion of the program was aroused by warnings from the international office in Washington and was confirmed when the city planned hiring at above entry levels. Both the city and the union claimed the reason for such slotting was financial. The parties queried the Department of Labor as to the possibility of financing the differential cost between current wages of regular employees and those they would receive in higher rated PEP positions. The reply was negative, but the city persisted in its efforts to include above entry-level jobs for PEP participants.

The union and the Department of Labor felt the city did not live up to its May 11th agreement on the above entry PEP positions. The union was also displeased that the Department did not take further action. The impact on collective bargaining was to deepen the already existing distrust. PEP hiring did not become an issue in 1972 negotiations on a new agreement because the union hoped the city would adhere to its earlier commitment. If the city had not eventually complied with the May 11th agreement, it is possible that PEP hiring would have been a matter of collective bargaining in the future.

LOUISVILLE

Karen S. Koziara

The City of Louisville

The city of Louisville had a population of 361,472 in 1970. In May of 1970 the unemployment rate in Louisville was 3.5 percent. By May 1971 that figure had risen to 5.2 percent. Between August 1970 and August 1971 the employed labor force in Louisville dropped from 335,300 to 329,400. Many of these 5,900 jobs were lost as a result of defense cutbacks in the ordinance industry.

More than half of the workers laid off due to ordinance cutbacks were women. Many of these women had little experience or training for other work and therefore had difficulty in finding employment.

Seven neighborhoods in Louisville had 1971 unemployment rates of more than 6 percent: Manly, Park-Hill, Park-DuValle, Russell, California, Portland and Jackson. The unemployment rates in these neighborhoods ranged from a high of 17.6 percent in Jackson to a low of 9.4 percent in California. In Manly, Park-Hill and Portland the population is predominantly white. In Park-DuValle, Russell and California it is predominantly black, while in Jackson there were only slightly fewer blacks than whites in 1970.

Louisville has a mayor-city council form of government. The city administration is heavily Democratic. The mayor has been interested in getting more federal funding, but this interest has not been actively supported by all members of City Council.

It has been alleged that the city's Finance Director, who has much influence on some members of the Council, was not particularly enthusiastic about the PEP program. In any case, the PEP program has not been one of the city's major concerns.

Although Louisville has not laid off any public employees, its financial situation, like that of most major cities, is poor. In the budget hearings for fiscal year 1973, which were held in June 1972, a 10 percent decrease in available city funds was predicted. The approved budget did not reflect such a cut, but the prediction indicates the importance of PEP funds to the city.

Employee Organizations and Bargaining History

The City of Louisville has contracts with five different bargaining organizations. These organizations are the International Brotherhood of Teamsters, the International Brotherhood of Electrical Workers, the Firemen and Oilers, the Fraternal Order of Police (FOP) and the International Association of Fire Fighters (IAFF). The city estimates that about 60 percent of its hourly paid employees are organized. The Sanitation Department is almost completely organized, and the percentage of organized members in the Police and Fire Departments is also quite high.

Collective bargaining is a relatively new development for Louisville. The city's first contracts were in 1968 with the IAFF and FOP. Contracts with the other three unions followed rapidly.

Negotiations are generally conducted by the Executive Assistant to the Mayor, the Finance Director and, on ocassion, the Assistant Finance Director. The city regarded its bargaining relationships with the four employee organizations other than the IAFF as relatively good. There has been little trouble in negotiating contracts with these four unions, and only a relatively small number of grievances could not be handled successfully in an informal manner.

Relations between the IAFF and Louisville have not been overly amiable. The original contract between the city and Local #345 of the IAFF was not signed by the mayor, even after its approval by the Council of Aldermen, until a court decided that the contract did not violate the city constitution. The most recent round of negotiations between the IAFF and the city was marked by two fire fighter strikes. The first began when the contract ended. Five fire fighters were left on duty as a skeleton emergency crew. (Normally about one-third of the city's 600 firemen are on duty at any given time.) The city got a court injunction, and the strike ended. When the city fired several union officers, union members resumed the strike in violation of the injunction, leaving a three-man crew on duty for emergency calls. The fire fighters accompanied the strike with demonstrations in front of City Hall. Resumed negotiations and a signed contract rapidly followed the strike and demonstrations.

Although it had gotten a new contract, Local #345 is in the process of filing unfair labor practice charges under a state law which regulates collective bargaining between Louisville, the state's largest city, and the IAFF. Some city officials place the blame for the strained relations between the fire fighters and the city on the personality of the Local #345's President. The IAFF, on the other hand, feels that the city officials resent intrusion on their decision making powers.

The PEP Project

During the first year of funding under the PEP program, Louisville was allocated $885,200 in Section 5 funds and $1,098,100 in Section 6 funds. The city primarily emphasized meeting current public service and public safety needs. The official guidelines for distributing funds were department needs, the availability of funds, and the priorities of the mayor's manpower office. In practice, employment priorities were based on requests by department heads, who determined the greatest public needs of the departments, and the possibility of providing transitional employment for people to be hired under the PEP program. Prior to the city's obtaining program funds, the department heads were required to rank their needs; once the amount of the grant was known they were asked to reevaluate their original requests in light of budget restrictions.

The priorities established by the manpower office generally reflected city needs that had reached critical levels. For example, a small fire publicized the lack of regular fire fighter protection at Louisville's airport. In the case of an emergency, fire fighters had to be sent from stations several miles from the airport. The public attention generated by these disclosures and the desire to avoid a real fire emergency resulted in the designating of some of the PEP funds for use in providing fire protection at the airport.

The city planned for the Section 5 funds to be used in 115 jobs in 14 departments. The largest allocation to a single agency went to the Department of Parks and Recreation with funds for 8 professional and 26 nonprofessional jobs. The Sanitation Department was allocated funds for 16 jobs, the Fire Department 14 jobs, the Police Department 12 jobs, and each of the city hospitals 8 jobs. The balance of the jobs were divided in small numbers among the remaining departments.

Funds for the city's Section 6 grant authorized 213 positions. Fifty-four of these jobs were in the area of environmental quality, 36 in parks and recreation, 31 in public health and hospitals, 15 in public works and transportation and 11 in law enforcement. The remaining jobs were spread over a number of areas.

Much of the hiring was done at entry-level positions in order to provide employment opportunities for unskilled and disadvantaged workers. However, some hiring was done at above entry-level positions, particularly in the Fire Department.

Prospective PEP employees were first interviewed and counseled by PEP project administrators in the Manpower Planning Commission. Eligible applicants were then sent to the department heads, who decided whether or not the applicants would be hired. The

Manpower Planning Office learned of the hiring decision through Finance Department reports. Records of PEP employee termination also came to the Manpower Planning Commission through the Finance Department.

Start-Up Problems

Previous to the submission of the original grant proposal to the Department of Labor, the Manpower Planning Coordinator called in a number of union leaders to discuss the program with them. The union leaders were at first hesitant and suspicious of the program. They indicated their objection to any hiring above the entry level in their departments. As a result of this comment, the grant proposal was changed somewhat to eliminate problems with above entry-level hiring in the departments where these unions represented employees.

The unions also wanted to know if PEP employees would be treated like other employees and thus be required to become union members under the union shop contracts that had been negotiated with the city. It was made clear in a letter from the Manpower Planning Coordinator that the union contracts would apply to PEP employees. As a result of these discussions, the unions were apparently satisfied with the PEP proposal and its implications for labor-management relations.

No representatives of Local #345 of the IAFF were invited to the meeting at which the PEP program was explained to the other union representatives. The Manpower Planning Coordinator explained the omission as an unintentional oversight that occurred because he does not bargain regularly for the city and had no list of the unions with which the city had contracts. The Manpower Planning Director, however, had easy and frequent access to the Finance Director in the same building, who was familiar with all the city's bargaining relationships and who maintained a complete list of the unions with which the city bargains. In any case, several complaints about the PEP program were registered by Local #345 of the IAFF.

The first problem arose when the Chief of the Fire Department requested and received funding for three civilians to be employed as arson investigators in the Fire Prevention Bureau's Arson Squad. The union charged that this action violated the maintenance-of-effort requirements of the Emergency Employment Act. Previously six fire fighters had been assigned to the Arson Squad; now there would be three fire fighters and three civilians on the squad. Thus, PEP funds were being used to fill previously budgeted positions. Moreover, these positions had been regarded as promotion opportunities since they had previously been filled by uniformed fire fighters who had passed a Civil Service promotional test required by law. The practice had been for Fire Prevention Bureau employees to move up to these positions, thereby creating promotional positions in the Fire Prevention Bureau for line fire fighters. Three vacancies on the Arson Squad had been left unfilled since August 30, 1971, although there were fire fighters who had passed the necessary exam. The union did not know if the three civilian employees had passed the Civil Service entrance and promotional exams. However, these employees did not meet the Civil Service requirement that persons hired as fire fighters be no more than 33 years of age.

The second problem concerned a transfer of regular city employees to the PEP program. Nine fire department employees were hired and put on the regular city payroll on September 7, 1971; they were transferred to the PEP payroll on October 17, 1971. The union charged that this was an additional city violation of the maintenance-of-effort requirements of the Emergency Employment Act. The union was also concerned because the nine employees had not originally been told that they were hired with PEP funds and that their employment might not be permanent. They were informed as to their status as PEP employees on October 17. Besides representing the workers on their employment status, the union questioned whether or not it was legitimate for it to deduct pension payments from the salaries of employees who might not be permanent.

A third problem brought up by the union was the use of PEP funds to provide fire and rescue protection at the Standiford Field Airport. The airport gets funding from a variety of sources in addition to municipal funds. The union doubted if the city as PEP program agent could legitimately use PEP funds to pay some of the costs of the airport's operations.

An over-all complaint of Local #345 of IAFF was that it had not been notified of Louisville's grant proposal and thus had not been given a chance to make either formal or informal comments on the proposal. The union strongly felt that this lapse on the part of the city was to blame for the other three problems. Some union leaders also suspected that the failure of the city to fulfill the Emergency Employment Act's notification requirements was intentional rather than an oversight by the Manpower Planning Commission.

Problem Resolution

The national office of the International Association of Fire Fighters sent a letter to its constituent locals on September 22, 1971, explaining a change in the PEP program guidelines which had been proposed by the IAFF and generally accepted by the U.S. Department of Labor. Essentially, the guideline change stated: (1) PEP participants should not be hired to do work normally performed in positions currently vacant, unless it can be certified that qualified applicants are not available to fill the vacant positions; and (2) all PEP employees were considered temporary employees, and only those who were fully qualified and had passed the regular entrance exams would be eligible for permanent fire service positions. Finally, the letter suggested that any problems in either area should be referred to the PEP Coordinator in the Washington office of the U.S. Department of Labor and to the national offices of the IAFF.[1]

On September 30, 1971, Local #345 sent telegrams to the PEP Coordinator and the national offices of the IAFF to complain about the assignment of civilians to the fire arson squad. The national offices of the IAFF delegated authority to its Research Department to assist the local. The U.S. Department of Labor notified the appropriate regional office, which in turn, contacted Louisville's Manpower Planning Coordinator about the complaint.

During this same period the problem involving the switched employment status of nine fire fighters was brought to the attention of Local #345. The union then filed a complaint with the Chief of the Fire Department.

The Department of Labor representative who was handling the administration of the Louisville PEP program discussed the problems with the Manpower Planning Director and other city officials. They explained that the transfer of the nine fire fighters who were transferred from the regular city payroll to the PEP program was due to a mistake in the Accounting Department. Although the nine involved fire fighters had been hired into the PEP program, the Accounting Department had given them employment numbers consecutive with the regular city employees and had placed them on the regular city payroll. This mistake was not discovered for several weeks, and the nine employees were then placed on the PEP payroll as originally intended. They had not been informed of the reason for the change in employment status because it had been assumed that they considered themselves to be PEP employees. The records apparently bore out this contention, and the Department of Labor representative accepted the city's explanation for the payroll switch.

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[1] Letter from William McClennan, President, International Association of Fire Fighters, to Secretaries of U.S. Locals, September 22, 1971.

The final resolution of the matter was worked out by the city and the union. As a result of union pressure, the city wrote to the nine employees explaining their employment status. These nine employees have subsequently been made permanent employees. Additional groups of fire fighter trainees have been hired with EEA funds and become permanent Fire Department employees. The union is generally satisfied with this arrangement, but it feels that it must continue to put pressure on the city to inform newly hired employees that they are part of the PEP program and to inform such employees when they obtain permanent status.

The problem involving the three new positions in the Arson Squad has met with a less clear and less satisfactory solution. The city maintained it had included these positions in the PEP proposal because the Fire Department gave assurances that these were new positions. To the union it seemed quite clear that they were not new positions. It argued the new positions on the Arson Squad lessened the promotional opportunities for uniformed fire fighters. It was also charged that one, and perhaps all, of the new Arson Squad employees were retired Army officers, and that hiring them with PEP funds thwarted the legislative intent behind the program.

The union considered filing a grievance about the three arson squad positions. The union's contract contains a section on promotional positions, but that section does not require that promotions to these positions be from the ranks of the fire fighters. The relevant contract clause states:

> All present promotional vacancies shall be filled by November 14, 1965, and all further promotional vacancies shall be filled within ninety (90) days after the vacancy occurs. This shall be regular procedure hereinafter required.[2]

Although the contract does not specifically provide for a grievance, past practice indicates that arson squad positions had been awarded on a promotional basis. As late as August 1972 the union was considering using the grievance procedure. However, the time period that had elapsed since the hiring of three civilians for the arson squad made it unlikely that the grievance would be successful. The union president also realized that the union could look very bad if it caused people to lose their jobs. Instead, the union brought the problem to the attention of the Regional Office of the Department of Labor.

The representative of the Department of Labor took no discernible action on the matter of the arson squad. Three reasons account for the inaction. First, some members of the regional office believed the union had lost its right to protest when it had failed to comment on the city's application funds. Second, a personality clash had developed between the representative in the regional office and the president of the local union. Third, the regional office felt that the union's complaint on the changed employment status of the nine fire fighters had little merit. Later union complaints may have been regarded in a similar light.

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[2] Agreement, by and between the city of Louisville, Kentucky, and Louisville Professional Fire Fighters Association, Local Union No. 345, IAFF, AFL-CIO, 1971, Article X, p. 13.

The lack of success with the Regional Office of the Department of Labor caused Local #345 to request help again from the national offices of the IAFF. The letter of December 27 stated the local's position and described the representative in the Atlanta Regional Office as "this idiot in the EEA Atlanta Office who was as anti-fire fighter and labor as I have come in contact with."[3] Apparently this request got mislaid, for the national offices wrote to Local #345 in January 1972 to see if it had had any problems with the PEP program. Another letter from the local explaining the Louisville situation resulted in a review of the case at the national level, but there were no changes in the implementation of the Louisville program.

Two things resulted from the union's questions about civilians being hired for the Arson Squad. First, Local #345 concluded that it was fruitless to process complaints through the Atlanta Regional Office of the U.S. Department of Labor. Instead, it attempted to work through the national offices of the IAFF, both to solve local problems and to encourage the development of PEP program guidelines that more fully took into account collective bargaining. Second, the city officials decided not to hire for the Arson Squad positions without first opening them to eligible fire fighters.

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[3] Letter from Thomas Dale, President, Local #345, International Association of Fire Fighters to Walter Lambert, Research Department, International Association of Fire Fighters, December 27, 1971.

The airport question has still not been satisfactorily resolved. Since it does not have a detrimental impact on uniformed fire fighters, the union does not have the same incentive to press the issue that it did with the other two problems.

Other Problems and Changes

Because the Manpower Planning Commission received program enrollment and budget information from the Finance Department, the Commission often found itself working with budget and employment information six weeks to two months old. Therefore, the Commission never knew if the PEP funds were being fully utilized. Some underspending of program funds resulted. Other unused funds accumulated because the Commission often did not know of job vacancies because of employee terminations or because of the failure of department heads to hire some of the applicants sent to them.

During the summer of 1972 the Department of Labor initiated meetings between representatives of the Manpower Planning Commission, the Finance Department, and the people responsible for data processing. The result was the development of new accounting procedures which should alleviate the problem of lapsed and unused funds. To use the accumulated funds, the city developed an eleven week summer program which concentrated on hiring young workers, older workers (over 50 years), and Viet Nam veterans.

An earlier proposed modification in the PEP program had resulted in the only other labor-management problem faced by the Louisville project. The planned modification included several positions for garage mechanics in the Department of Public Works. These positions were not entry-level positions, and current employees would not be eligible for promotion to these positions because the program guidelines stipulate that workers must be unemployed for at least 30 days in order to qualify for PEP positions. The union representing the workers in the Department of Public Works, the International Brotherhood of Teamsters,was informed of the proposed modification and given a chance to comment on it before it was implemented. The union objected to the city proposal and suggested as an alternative plan. The proposed garage mechanic positions would be filled by promotion of union members, and the vacancies would occur at entry-level position. However, the bidding process necessary for this plan to work would have taken at least 30 days, and the modification had to be submitted to the Department of Labor in a shorter time period. Therefore, the problem was finally resolved by dropping the garage mechanic positions for the Public Works Department from the modification.

Summary

The two major problems encountered by the Louisville PEP program during its first year of operation were labor-management problems and accounting problems. The latter, it is generally agreed, have been resolved and are not expected to reoccur.

The issues causing the labor-management problems were above entry-level hiring and the transfer of employees from the regular payroll to the PEP payroll. There is some diversity of opinion whether or not these or similar labor-management problems will occur in the future.

The city officials are concerned with avoiding labor-management problems that will interfere with the effective functioning of the Louisville PEP program. One indication that the city has learned from experience is the handling of above entry-level hiring in the Public Works Department compared to the earlier case in the Fire Department.

Local #345 of IAFF, however, is not altogether convinced of the city's good intentions. In addition, it has been critical of the U.S. Department of Labor, both for its general handling of the program and for its insensitivity to the needs and interests of organized labor. The union felt that the Department of Labor should make sure that unions are given a chance to comment on project proposals. Moreover, the Department of Labor should be more responsive to union criticisms and complaints once program implementation has begun. Finally, Local #345 suggested that a watchdog committee of independent public representatives oversee the PEP program in each city to prevent program mismanagement and to protect legitimate union interests. While these are interesting ideas, the basic responsibility for avoiding future labor-management problems rests with the city, the Department of Labor, and the unions.

PHILADELPHIA

J.Joseph Loewenberg

The City of Philadelphia

Philadelphia is the fourth largest city in the United States with a 1970 population of almost 2 million persons. It is a major manufacturing, trade, finance and government center. The city has been in the forefront of municipal labor relations in this country.

The City of Philadelphia is the hub of an eight-county SMSA whose total labor force approximates the city's population. More than a quarter million persons are employed in the manufacture of electrical and other machinery, food products, apparel, and chemical products. Altogether about 25 percent of area employment is in manufacturing. Over a quarter million persons are employed in both the government and retail trade sectors, while another one-third million persons have found employment in services and related fields. Area employment has declined slightly in recent years, however, largely because of plant closing and relocations.

Unemployment in the Philadelphia area increased from about 4.2 percent to 6.6 percent between mid-1970 and mid-1971. In the City of Philadelphia itself, the proportion of unemployed was considerably higher; conservative estimates placed the city's rate of unemployment in July 1971 at a minimum of 10 percent. Unemployment was particularly severe for blacks, with perhaps more than 25 percent of the black labor force unable to obtain employment. Other groups with above-average unemployment in the city were youth, women, Viet Nam veterans, and Puerto Ricans.

The City of Philadelphia has a home-rule charter from the State of Pennsylvania. It is governed by a mayor-manager-council form of government, with the mayor being the strong executive. He appoints the Managing Director of the city as well as other top posts. The city charter also provides for a strong and independent Civil Service Commission whose responsibilities include appointments, promotions, layoffs, and job classification. The civil service regulations and procedures are widely respected and are used by the unions in resolution of problems. Since 1952 when a group of reformers gained control of city government, the city has had a succession of Democratic mayors. The Democrats have also had continuous control of city council. The strength of the Democratic Party in city politics was attested to in fall 1971 when Police Commissioner Frank Rizzo, a long-time registered Republican, changed his party registration and ran successfully as a Democrat to become mayor. He succeeded James H.J.Tate, who was limited to two terms in office by the city's charter. In 1971, total city employment was approximately 35,000.

As part of the 1965 Educational Home Rule Charter, the city's school system was removed from direct municipal administration and placed under separate school district organization and direction. The city was made the fiscal agent to collect the school district's tax assessments, and the mayor has the right to appoint members to the Board of Education from recommendations of a citizens' nominating panel. It was the intent of the reformers that education be removed from politics and political control. In early 1971 the head of the school board was Richardson Dilworth, a former mayor of the city who frequently, sharply and publicly disagreed with Mayor Tate. Mr. Dilworth resigned as President of the Board of Education early in September, 1971, and was succeeded by Rev. Henry Nichols, a black minister. The superintendent of schools was Dr. Mark Shedd, an educator brought to Philadelphia by Mr. Dilworth. The school district in 1971 had 22,000 professional and classified positions.

As in most major municipalities in the United States in 1971, the City of Philadelphia suffered from fiscal problems. Revenues had not risen in line with costs. In early 1971 the city had faced a deficit of over $30 million. In an effort to trim costs, the mayor imposed a freeze on new hiring between September 1970 and June 1971. No layoffs of existing employees had been effected, however.

The School District of Philadelphia was, if anything, in a worse financial situation than the city. Its debt was absolutely and proportionately higher, and it was dependent on loans from major banks in the city to continue operations. Part of an annual ritual was a threat to close the schools earlier than the scheduled end of the school year because of lack of funds. Indeed, the school district had been forced to lay off workers and reduce positions, especially in administrative services.

Employee Organizations and Bargaining History

Philadelphia has been widely regarded as a good (i.e., strong) union town. Organized labor has long been entrenched in the city's private sector of the economy, especially in the manufacturing and construction industries. In the public sector, too, unions have organized workers for several decades and were accustomed to presenting demands for changes to the mayor and city council during budget hearings. The first collective bargaining agreement was signed following a strike of sanitation workers. The responsible conduct of The American Federation of State, County and Municipal Employees (AFSCME) impressed the incumbent mayor, who then extended formal recognition and began to bargain collectively with representatives of the city's nonuniformed employees. In 1957 AFSCME got exclusive representation of nonuniformed employees; excluded from the bargaining unit were supervisory, professional and confidential employees. A decade later the union obtained a modified union shop form of organizational security. Uniformed employees, on the other hand, did not begin bargaining until after the enabling statutory legislation in 1968. Both the 9000 member police force and the 3,000 professional fire fighters were well organized, the former by the Fraternal Order of Police and the latter by the City Fire Fighters Association, a local of the International Association of Fire Fighters. All of the unions have gained additional strength as a result of political activity in municipal elections. The unions were considered close to Mayor Tate and a powerful factor in his re-election to a second term in office.

Other public but non-municipal employees in Philadelphia are also represented by employee organizations. School district employees have been organized as follows: 12,500 teachers, other professional employees and clerical workers by the Philadelphia Federation of Teachers, Local 3 of the American Federation of Teachers; and janitors and maintenance personnel by Local 1201 of the International Brotherhood of Firemen and Oilers. The city's public transportation system, operated under a separate public authority (SEPTA), has long been organized by the Transportation Workers Union.

Wages and benefits of public employees in Philadelphia have been regarded as favorable compared to private industry compensation for comparable positions.

The PEP Project in Philadelphia

As a large city with a special Manpower Utilization Commission and a Deputy City Representative who led the city's efforts in development of human resources, Philadelphia was fully informed of the EEA legislation as it made its way through Congress. The city was only too ready to apply for funds and implement the program as soon as its share had been apportioned.

The application for initial funding of $1.5 million (20 percent of total funds initially awarded the city) was filed on August 20, 1972.

The program proposed 322 jobs, of which 170 were laborers and 40 were custodial workers; the remaining slots were spread through a variety of occupations, whose job titles commonly included words such as "trainee," "aide" or "assistant." All of the jobs were under the jurisdiction of the City of Philadelphia.

PEP participants were to be placed in provisional civil service status and given 6 months in which to pass qualifying examinations for permanent civil service status. Among the rights and privileges of civil service was coverage by the union agreement and opportunity to take civil service examinations for promotions. In fact, the possibility for promotion was limited to regular city workers because of the limited number of promotion opportunities, the long list of persons eligible for promotions in most categories, and the determination of promotion on the basis of examination results and seniority.

Initial Problems: "Dividing the Pie"

Between the initial and full funding applications, a major controversy developed in the Philadelphia PEP program. The prime antagonists were the city and the school district, but everyone associated in the project became involved.

The Board of Education had been aware of the EEA legislation from the outset. In fact, the chief of the government contracts department for the Board of Education was a member of a council of the country's 20 largest school systems which had tried to lobby Congress to designate a proportion of the funds to be spent in school systems.

The effort failed; school systems were mentioned in the EEA legislation, but no specific funds were allocated, and school districts were not made program agents.

The allocation of all funds for Philadelphia to the city did not bode well for the school district. The Board of Education felt it deserved a sizeable portion of the funds, based on relative levels of employment and financial need. It requested that up to half of the PEP funds designated for Philadelphia be allocated to the Board of Education. The authority to designate subcontractors and to apportion available moneys was in the hands of the program agent. Feelings between the mayor and the Board of Education had reached an all-time low. The mayor had little use for members of the Board of Education or the superintendent of schools. At this time, all communications between the city and the school district were through staff personnel, not between the mayor and the members of the Board.

Although the school district's needs could not be overlooked in the PEP project, they could be minimized. Without apparently consulting anyone outside of municipal government, Mayor Tate indicated he would assign 20 percent of the Philadelphia PEP funds to the Board of Education. The rationale for this figure was that the city could only fill one-fifth of its additional manpower requirements through the PEP funds which it would receive. The Board of Education decided to fight the mayor's decision. The regional office of the Manpower Administration was aware of the problem and wished to expedite Philadelphia's application, but it felt that it could not mediate or become involved in the dispute.

The Board of Education exercised pressure on the mayor in a variety of forms. One was inviting the offices of the state's Republican senators in Washington to express publicly sympathy for the schools' plight. Another was newspaper publicity to gain public support. A third method was utilizing the unions.

The unions representing school district employees pressed a campaign of letter writing and passing resolutions. They were particularly concerned about regaining job slots lost in previous employment cuts. District Council 33 of AFSCME maintained a neutral stance on the matter. Although the mayor's position would have been more favorable for this union which represented municipal workers, the leaders of AFSCME regarded the dispute between the mayor and the Board of Education as a "family fight" in which it preferred not to become involved.

More significant in terms of influence was the work of the Philadelphia offices of Human Resources Development Institute (HRDI). HRDI is a nonprofit organization established by the AFL-CIO and funded by the U.S. Department of Labor. Its functions are to represent labor in manpower employment and training efforts and to work with unions on federal manpower contracts. The AFL-CIO, which supported EEA legislation, assigned HRDI the responsibility of working with unions on local PEP programs to interpret laws, guidelines, and the like. HRDI also has a central role in state and local manpower planning councils (formerly designated and still widely referred to as CAMPS). In Philadelphia, HRDI used the manpower planning council as a basis for mounting labor's support of the school district and opposition to the mayor's decision on allocation of PEP funds. Representatives of the mayor's office and the Board of Education appeared before the Philadelphia manpower planning council to present their positions. Afterwards, the membership of the council passed a motion censuring the mayor for his stand in allocation of PEP funds. The motion was significant because of the composition of the council represented a broad spectrum of labor and business and included some of the mayor's staunchest supporters.

The various forms of pressure on the mayor bore fruit. Mayor Tate and Reverend Nichols, who meanwhile had become acting president of the Board of Education, met to negotiate the distribution of Philadelphia PEP funds; also present were manpower specialists from both sides. The negotiations were concluded with the signing on September 17 of a formal agreement which allocated 30 percent of the PEP funds of Philadelphia to the Board of Education. The agreement together with a letter from the Board of Education endorsing the project were just in time to be included in the city's application for full funding.

The city, in its application for full funding of the PEP project in Philadelphia in September 1971, noted a large number of unmet public needs in education, streets, recreation, health care, public safety, and 15 other areas. The application assigned jobs in 16 of the 20 areas, although no area was given sufficient slots to meet all of the needs in that area. The bulk of the jobs were in education, streets, health care and recreation, in that order. The 761 jobs listed in the application for the city itself included 321 laborers, 131 custodial workers, 38 hospital aides, 30 recreation aides, 29 clerk typists, 27 food service workers, 22 auto servicemen, and 20 watchmen. Other job categories had fewer than 20 slots each. Twenty-two openings were classified as professional. In all cases, the jobs were designated as grade I, trainee, or assistant -- in short, as entry-level classification.

The school district portion of the application specified 457 helpers, classroom aides, instructional materials assistants, licensed employees, and teachers. The superintendent of schools had decided that a major need of the school system was in school building maintenance, which had suffered because of previous budget cutbacks. Some of the positions proposed initially by the administration of the school district were essentially new positions in the school cafeterias. The Philadelphia Federation of Teachers objected to the designation of new positions because there could be questions whether the incumbents would be represented by the teachers union or some other group. The potential problem in bargaining unit jurisdiction was sidestepped when the school administration emphasized maintenance work, thereby assigning most of the PEP positions to the International Brotherhood of Firemen and Oilers, Local 1201.

The fact that all of the job slots in the city's application for PEP funds were classified as entry-level jobs can be traced to union influence. Prior to submitting its initial application, the city had consulted informally with District Council 33 of AFSCME. All in all, five or six meetings were held to discuss the program. The union made it clear that it would fight any attempt to include above entry-level jobs in the city's PEP project:

> However, there may be instances where the availability of entry level personnel provided under this program will make it possible for various city departments to affect departmental promotions of present employees into higher positions which have been vacant and unfilled for a considerable period of time. This would be a proper procedure since the city employees' union has indicated it would not look favorably on the filling of these higher positions by new employees when they are clearly intended to be promotional and advancement opportunities for present city employees.[1]

The school unions also voiced their concern to the Board of Education that jobs be restricted to entry-level jobs to preserve promotional opportunities for present employees. The head of the school district's labor relations office was a party to all discussions between the school district and the unions representing school district employees. The Board of Education agreed to the unions' request and structured the positions in the application accordingly.

The city sent the formal application for full funding to District Council 33 of AFSCME on September 17, 1971 requesting that a notice of intention to comment on the application be given within three days and that the comments themselves be mailed to the regional office of the Manpower Administration within 15 days. Because the problem of entry-level jobs had been discussed and resolved earlier, the union sent a letter to the Regional Administrator fully endorsing the application.

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[1] Section E, "Occupational Description for Full Funding" City of Philadelphia, Application for Full Funding, Sept. 17, 1971.

Neither the police association nor the fire fighters' union was asked for comments because no jobs covered by the bargaining units of these unions were included in the Philadelphia project. The maintenance and teacher unions representing school district employees approved the sub-agent application submitted by the Board of Education.

Later Developments and Problems: The Specter of Layoff

Following the full funding of September 1971, the City of Philadelphia received additional moneys for its PEP project. In November 1971, the city applied for $2.4 million under Section 6 of the PEP program. The 305 positions covered many of the same categories and in much the same proportion as the earlier job distributions of the program agent. The application covered only city, county prison and SEPTA positions. The city's reasons for excluding the school district from the Section 6 funds allocated to Philadelphia were that the school district neither needed nor deserved the funds as much as the city. According to the city, the school district had been able to fill 40 percent of its unmet needs with Section 5 funds, whereas the city had filled but 25 percent of its requirements; even with Section 6 funds, the city would only obtain 35 percent of its outstanding needs. Further, the school district had not begun to use its PEP allotments even though two weeks had passed since it had been authorized to begin hiring.

In February 1972, the City of Philadelphia applied for and soon received an additional $3.45 million under Section 6 of the PEP program. These funds were for the creation of an additional

663 positions, 413 of which were assigned to the city and 215 to the school district. The division of funds in this additional grant was one-third for the school district and two-thirds for the city. Under total Section 6 allocations, of course, the school district had received less than 20 percent of Philadelphia's total share. The reason for the turnabout in the city's position regarding sharing of Section 6 funds with the school district may be attributed largely to a change in the political situation and to the city's ability to obtain extraordinary funds from Washington. The change in the political situation was the election of a new mayor, new appointments to the Board of Education which resulted in a majority and a new president closely identified with the mayor, and the resignation of the school superintendent. The city's list of jobs under the new request continued in much the same vein as earlier applications. The school district shifted its focus, however, from maintenance to education-related activities; the 250 new positions included 149 community resource workers, 60 classroom aides, and 17 nonteaching assistants.

Once the Philadelphia project became operational, the city as program agent and the school district as sub-agent attempted to fill the available positions. The city created a special program staff with its own set of personnel interviewers to screen applicants, determine program and job eligibility, and, if qualified, to refer the applicants to appropriate departments. One means used initially to recruit persons for PEP positions was to comb through civil service lists to find unemployed persons who would qualify for PEP openings. In effect, this created a separate PEP register from the civil service lists. Hiring in the school district proceeded on a less organized basis in the first year. Some applicants for school district PEP jobs entered through the PEP office, while others were hired by the regular personnel office. Altogether the Philadelphia program more than met the targets of various participant characteristics established by the national PEP program guidelines.

The school district found that the PEP program and PEP participants were regarded in a poor light within the school system. The PEP program was viewed widely as a program for disadvantaged persons. Local 1201 of the International Brotherhood of Firemen and Oilers objected to this characterization and to the implied slur on the PEP personnel it represented. In an effort to maintain its self-image and to assure the reputation of all PEP participants, union leaders took steps to point out to supervisors work deficiencies among some PEP workers.

In another instance, District Council 33 of AFSCME did not object to a violation of the "entry-level only" rule. Two jobs were available in the prisons, and both were due to be filled from the promotional rosters. No eligible person on the roster would accept either position. The union agreed to waive the established procedure to enable the positions to be filled with qualified PEP applicants.

In all cases, the unions represented PEP personnel in job categories represented by the unions; most PEP employees were under civil service coverage and the jobs were covered by bargaining agreements. In many instances -- but not all -- the PEP workers had become members of the unions. Individual grievances were generally not different from those raised by regular workers. One exception was that PEP personnel were sometimes found to be ineligible under PEP hiring guidelines after having worked for a period in PEP positions. Even in such cases, the union would represent the PEP participant. Most grievances were resolved informally without becoming written complaints.

The hiring of PEP participants from the civil service lists was questioned informally by the unions. The unions were worried about the repercussions of such employment methods. When PEP participants would be moved into permanent employment, those on the civil service lists who had been declared ineligible for PEP could properly charge discrimination in not being appointed to a permanent position.

The status of PEP participants was also raised by the unions in another context. Despite various fiscal crises, the City of Philadelphia had been spared the need to lay off municipal workers. In late spring 1972, however, rumors circulated that a layoff was impending in the Department of Licenses and Inspections. The regional office of the Manpower Administration received a letter from the city's manpower chief informing the U.S. Department of Labor that 160 persons would be terminated in Licenses and

Inspections on June 30, 1972. The layoff would eventually affect 65 PEP participants who could be bumped by the regular employees. The layoff was due to the termination of another federally funded program, but this did not resolve the problem of the relative rights of employees who might be laid off against those of PEP workers in the department. The U.S. Department of Labor reluctantly agreed that the PEP participants could be laid off on the basis of lesser seniority as long as they were given priority in recall once fiscal year 1973 funds became available.

Although the layoff in Licenses and Inspections never took place, the possibility of layoffs somewhere in the city government at some point in the future could not be ignored. The Licenses and Inspections affair therefore served as a catalyst to a major change in the status of PEP participants in Philadelphia. District Council 33 of AFSCME in particular was disturbed with the possibility that PEP participants would remain working, even if only temporarily, while regular employees were laid off. Such a procedure would be counter to the seniority principle of layoff espoused by the union and the civil service concept. Under Philadelphia civil service regulations, according to the union, it would be even possible (though not probable) for the PEP person to retain his job while the regular employee counterpart would be laid off. The order of layoff in Philadelphia is determined by a point system, with the number of points awarded each individual based on a combination of seniority and performance ratings. District Council 33 has regarded the performance rating system as biased and unreliable, but has been unable to eliminate it. In the case of PEP, however, the city and District Council 33 negotiated an agreement effective July 19, 1972, which would remove PEP participants from civil service. Instead of PEP participants being placed in provisional civil service status, new hires in the PEP program would be "exempt" employees, that is, they would be exempt from civil service status. Such workers would go through normal civil service processing, including examinations, to gain civil service status. Unless and until such time as they gained permanent status, they would remain in the exempt category. The agreement also provided that PEP workers would be permitted two opportunities to pass promotional examinations while in the exempt status, thus affording them an advantage over people not working for the city. Although it was not clear to what extent collective bargaining agreements would affect exempt workers, the unions retained the right to represent PEP workers in grievances.

The basis for the July 1972 agreement was common recognition of differing standards applied to PEP workers from other city employees, but the implications of the agreement have not been fully explored. Both the city and the unions realized that PEP workers were not being hired according to civil service criteria, nor were they paid by city funds. Yet by placing PEP workers in a civil service status, they were receiving preferential treatment that extended beyond the individual's participation in the PEP program. Thus, the effect of the agreement was to place PEP personnel in a separate category from the regular city workers until the PEP worker could qualify under the existing civil service regulations and standards. While equal treatment will be afforded PEP workers with other persons interested in city employment in the case of hiring and with other city workers in the case of promotions, the effect of the agreement in the case of layoffs is not clear. It is the unions' contention that exempt workers will not have civil service protection if regular city employees were to be laid off indefinitely; at the least regular workers could bump PEP participants as soon as the regular workers became eligible for PEP positions. Others, however, feel the city may have gained administrative discretion in the matter. Since PEP workers are now exempt employees, they are in a different seniority category from regular workers. The relationship between the two groups and their relative rights are not obvious. For the moment, the problem involved in layoffs is moot. But clearly the agreement has not resolved this potential dispute between the city and the unions.

Neither the regional office of the U.S. Department of Labor nor the Civil Service Commission of Philadelphia became aware of the July agreement until three months later.

Summary

In Philadelphia, the unions played an early and continuing role in the development of the PEP project. The nature of the involvement has varied from participation in an essentially political wrangle between the municipal government and the school district to negotiating the status of PEP participants in a civil service framework and representing PEP workers in individual grievances. Throughout, the employers, the city and the school district, have been careful to notify the unions of changes in the PEP program, to consult on problems, and to observe existing collective bargaining agreements and procedures. At times, the employer position on an issue was opposed by a union, or the employer stand produced a difference in reaction among unions. But in all cases other than the initial difficulty involving allocation of funds, the employers were willing to discuss and resolve the matter on the same basis as other problems facing management and the unions. Although differences existed and will likely continue to arise, union involvement in the Philadelphia PEP project was essentially conducted in a constructive framework.

It must also be noted that the union involvement has affected the nature and structure of the Philadelphia project. The most notable instance was union pressure which helped the Board of Education to obtain more funds than the mayor had originally intended on sharing with the school district. The removal of PEP participants from civil service status was also a product of union concern and negotiations. Individual participants have been retained or removed in the PEP project as the result of union intervention.

In short, the presence of unions and established union-management relationships has proven to be an important ingredient in affecting the Philadelphia PEP project.

WILMINGTON

Richard D. Leone

The City of Wilmington

Wilmington is an older office-industrial city strategically located in the heavily traveled New York-Washington corridor. It has a population of 80,000 in a metropolitan complex of 300,000. City population has leveled off after a peak of 120,000 in 1948, while the SMSA continues to grow rapidly. The city's black population increased from 25,075 or 26.3 percent in 1960 to 34,883 or 42.5 percent in 1970.[1]

The city's economic base is mainly corporate headquarters and companies associated with financial affairs. The home offices of two major chemical corporations, DuPont and Hercules, are domiciled here. A high percentage of the employment is in the central business district and is heavily weighted toward white collar and professional workers.

A large part of higher skilled and higher income members of the area's labor force commute from the suburbs.[2] Consequently, the occupational status of city residents is mostly in the blue collar-service job classifications. A significant number of the city's residents work in the suburbs at two large automobile assembly plants and several chemical facilities. Approximately one-third of the resident labor foce is black, and over 20 percent of this group are government employees. In 1970, 4.2 percent of the white and 7.9 percent of the black labor force were unemployed.

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[1] The 1960 data are based slightly on the high side for blacks because the 1960 statistics include black and nonwhite persons in one category, but the 1970 figures are inclusive of only blacks.

[2] It is estimated that 24 percent of the city's residents work outside the city but within the SMSA. In turn, 37 percent of the residents living in New Castle County work in the city.

Wilmington has a mayor-city council type of government. City Council was controlled by the Democrats in 1971, but Harry G. Haskell, an independently wealthy and nationally influential Republican, was the mayor. The mayor's party affiliation may help to explain why Wilmington, in fiscal year 1972 alone, received $1,306,800 in PEP funds, a relatively large sum for a city having a population of only 80,000.

Employee Organizations and Bargaining History

Until recently, unions were neither numerous nor militant in the area. The early unions were largely craft unions, the most important of which were railroad and construction workers. After two large automobile assembly plants opened in the late 1940's and early 1950's, the United Auto Workers assumed a dominant role in area union affairs. Over-all, however, the DuPont Company has set the tone for labor-management relations with its paternalistic, quiet anti-union attitude.

Public employees were granted the right to engage in genuine collective bargaining in June 1965. Council 81 of the American Federation of State, County and Municipal Employees (AFSCME) was established in September 1966. Possessing jurisdiction for the entire state, Council 81 has 23 locals and represents such groups as state hospital employees, correction officers, social workers, and State Tax Department employees. Other than Wilmington, Newark is the only city in the state which has unionized employees.

Two locals of Council 81 represent the city's nonuniformed employees. The leader of these locals is black. Local 320, which represents the city's blue collar workers, was granted a charter in 1962; and Local 1102, granted a charter in 1968, organized the city's white collar workers. Local 1102 has approximately 250 members, of whom 60 percent are black. Most of the whites in this local still owe a certain allegiance to one of the political parties because they originally got their jobs through the patronage system. The local's black membership is not allied with either party. Local 320 has approximately 500 members, of whom 85 percent are black.

Local 1540 of the International Association of Fire Fighters represents the city's firemen. Prior to 1971, only one black and one Spanish-speaking person were among the 260 firemen working for the city.

Union-City Confrontation: Background

Three independent events, antecedent of PEP, conditioned PEP's implementation and influenced the stances and strategies of both the city and the unions.

The first event was a clash between the city, AFSCME Local 320, and the Fire Fighters over the Public Service Career (PSC) program, a pilot manpower training program approved in July 1970 but not implemented until January 1971 because of the controversy.

Under the terms of the PSC contract, funds were provided not only to train the unemployed disadvantaged but also to upgrade, through training, regular city employees. Fifty-one disadvantaged were to be trained for entry-level slots, while 30 regular city employees were to receive training for higher positions. A dispute arose between the city and AFSCME over what constituted entry-level jobs. The collective bargaining agreement between the city and Local 320 listed jobs classified from grade 11 to 25. It is estimated that two-thirds of the union members are in grades 11 through 15. The union maintained that 21 of the 51 proposed entry-level slots were at grade 12 or above, and therefore were not truly entry-level jobs as the city contended. The union argued that a large proportion of PSC funds should be used to train union members if they were not presently qualified for the higher positions.

The city claimed that most union employees not only were unqualified but had not bothered to apply for the higher position in the past. To resolve the dispute, the city agreed to give the union first option on 21 of the original upgrade slots set aside for the unemployed. Vacancies arising at grade 11 because union members had qualified for jobs above this grade would then be filled by the unemployed. Publicity over the confrontation and strong encouragement from union leaders prompted union members to apply where they had not before; ultimately, union members filled three-fourths of the higher-rated jobs.

The Fire Fighters protested that the PSC program bypassed the normal testing procedures, a fact which could permit unqualified persons to become members of the department. The city pointed out that the union had only one black and one Spanish-speaking fire fighter. It threatened to castigate the union publicly for bigotry if it did not cooperate with the program. The union decided not to press the issue further.

The second episode was a job freeze ordered by the mayor on all city jobs because of an unexpected $700,000 deficit at the end of fiscal 1971. The freeze meant that 78 slots, 15 of them new police positions, were to remain vacant. The city unions did not react officially to the freeze.

The third factor that influenced the city's strategy concerning PEP implementation began with a study conducted by the National Civil Service League of the city's minority hiring and upgrading practices. Thirteen of the League's seventeen recommendations were implemented in April 1971, constituting the nucleus of project Pacemaker. Among other affirmative action procedures, written examinations were curtailed for all but a few classifications, and promotions were determined through an interview with the Personnel Department and the head of the department involved.

The PEP Project

About September 14, 1971, the city formally received its first PEP funds, $647,800 under Section 5 of EEA. A week later the Department of Labor announced that the city would get $159,000 under Section 6 of the Act, but these fundd were not actually received until November. These two grants permitted the hiring of 184 people. Although the School Board and Model Cities were allocated some of the slots as sub-agents, the vast majority of the jobs were under the city's jurisdiction. The city used PEP funds to hire in such titles as clerk typists, watchmen, auto mechanics, policemen and firemen. In February 1972, an additional $500,000 under Section 5 increased the number of jobs paid through PEP to 264. Because of subsequent modifications, the number of jobs had increased to 271 by July 1972.

AFSCME

The dispute between the city and the two ASFCME locals, Local 320 in particular, begins with sharply divergent views of just when the city first learned of the program and gave notice to the union and the community.

On July 16, 1971, city department heads were notified that PEP funds would be made available to Wilmington and were requested to list those positions that they had to cut or could not fill because of the job freeze. The city claims that it took the initiative and also notified the union about jobs they intended to fill with PEP money -- even before any guidelines were published by the Department of Labor.

The union maintains that notification was ambiguous and that important provisions regarding the upper-grade positions were obtained from a newspaper reporter. The union suspected that the city preferred to act alone in structuring the contract and to call the union in after the fact.

Another factor which had an impact upon the city's strategy in dealing with the union was the Manpower Administration's guidelines governing the awarding of funds. Originally, the city had until September 2, 1971, to identify public service needs and to stipulate jobs for the PEP program. Cities would receive partial funding and have approximately six months not only to develop the full array of jobs to be funded but also to negotiate differences which might arise between themselves and other interested parties. Therefore, most unions in most cities thought they had adequate lead time to submit comments. In Wilmington, however, AFSCME registered its complaints early in August, as soon as the city made known its original plans. Meanwhile, in late August the U.S. Department of Labor altered its original plans and notified project directors that they would have to complete their contracts for full funding by September 2. (Wilmington was given until September 10.) Therefore, the city's and union's contradictory contentions concerning notification must be assessed against a background of rapidly changing federal guidelines.

In an effort to meet the Manpower Administration's original demand that cities initially request 20 percent of their total funds, Wilmington submitted an application for funds to 28 jobs on August 19, 1971. As early as August 4, however, both City Council and AFSCME were complaining about the type of jobs the mayor's office wanted to fill. Council argued that 24 of the jobs were new ones which needed their approbation because they could only be created by a city ordinance. City Council complained because they were not consulted and because they felt that the average wage of $9,000 for the 28 jobs was exorbitant. The jobs contained in the initial contract were high-level ones, and AFSCME registered the same complaints as with the PSC program. The city argued that it was necessary to put the higher-paying jobs in the initial application because of federal guidelines.

Although Council members and union representatives met several times with city representatives, the dispute was never settled. The initial contract was submitted with the higher-level jobs remaining. Before the Manpower Administration had the opportunity to address itself formally to the controversy, it decided that Wilmington had to have its full contract submitted by September 10.

As the contending parties debated the 28 jobs covered in the initial grant, a "grocery list" of some 90 additional jobs, to be funded by total grant, became part of the debate. On September 3, City Council authorized ten new positions but withheld action on the other 18 of the initial grant and the 90 jobs to be funded under the full contract. A total of six meetings were held between the city and union representatives, but as late as September 3 no agreement had been reached.

The union disputed the same issues with the city as it did during the Public Service Career program. The city claimed that present employees could not meet the standards and that federal guidelines obligated them to open the top-grade jobs to nonunion members. The union suspected that the city was misinterpreting the guidelines to fulfill political promises made to community action groups and to implement its affirmative action program. under Pacemaker.

The union's opposition to PEP employees getting top-level jobs was, as AFSCME saw it, a violation of the collective bargaining seniority provisions which stipulated:

> When a vacancy exists and an eligibility list has been established by the Department of Personnel for the position which is vacant in accordance with the procedures set forth in Resolution 64-013, entitled, "A Resolution Establishing Personnel Rules for Employees of the Mayor and Council of Wilmington" the employee on the eligibility list with the necessary ability or qualifications and greatest seniority shall be appointed to fill such vacancy. If such eligibility list has not been established in accordance with the aforesaid Personnel Rules, notice of the vacancy shall be posted on employee bulletin boards within five (5) days following the occurrence of the vacancy. Employees shall be given five (5) working days time in which to make application to fill the vacancy, or to

> fill a new position being created. The employee making the eligibility list with the necessary ability or qualifications and the greatest seniority shall be appointed to perform the duties of the position involved, and such appointment shall be made within thirty (30) days following the posting on the bulletin board. In the event there is disagreement on an appointment, an appeal may be made through the use of the grievance procedure. Newly created positions, or vacancies, are to be posted in the following manner. The type of work, department in which the vacancy exists, rate of pay, and classification. (Art.VI, Sec. 5).

The union position was strengthened by the assistance of the International Union, which was arguing the same issue with the U.S. Department of Labor in Washington. The International sent representatives to Wilmington, a move which the city interpreted as the union's intention to make Wilmington a test case for the country at large. The local union claimed it would call a strike, if necessary, to force the city to modify the inclusion of high level jobs under the program.

On the other hand, the city's position was reinforced by the job freeze. The city felt it could justify a refusal to promote unionized city employees to higher positions with higher pay when PEP funds were available to finance the same job if held by a new employee. Although no union member had been laid off as a result of the freeze, supervisory personnel of the city had indicated that eventually union members would be laid off in line with provisions of the collective bargaining agreement.

In submitting its full contract to the Manpower Administration on September 10, the city indicated that the union was willing to recognize only two positions as entry level: Clerk-Typist 1 and Laborer 1. The union was challenging approximately 30 jobs out of a possible 112 contained in the full contract. The city offered to lift partially the job freeze and permit AFSCME members to apply for half of the higher-grade positions. The entry-level jobs vacated through the promotion scheme would still be subject to the city's job freeze and thus be eligible for PEP funding. For each job category there was a different ratio for union members and PEP participants. This meant that 25 or 30 of the 46 union jobs created for PEP funding would be entry-level jobs.

To resolve the problem, the Department of Labor suggested that the city grant regular city employees a proportion of the upgrade jobs. The city agreed to incorporate this compromise into its proposal for full funding.

The union rejected the compromise, noting that two-thirds of union members were already in the lower grades. Backed by the International, the union threatened to call a strike to force the city to eliminate high-level jobs from the PEP program.

The city wanted the Manpower Administration to approve the contract even without a compromise. It suggested that the issue would be resolved later, at which time the contract could be modified. When the union remained adamant, the Department of Labor would not approve Wilmington's full funding, even though it had proposed the compromise.

The impasse was broken by a new agreement submitted by the city to the Department of Labor on September 14, 1971. It bore some resemblance to the previous PSC compromise: it stipulated that all upgrade jobs (above grade 11) would be posted and that union members would have first bid on them. If no one in the union qualified within five days, then and only then, would the vacancy be subject to PEP authority and guidelines. Under the terms of this compromise, approved by the Department of Labor on September 20, the city would lift its job freeze and pay the difference in wages arising because union members bid on high level jobs. For example, if a union member was a qualified auto mechanic's assistant, he could bid for a PEP auto mechanic's job on a higher grade level. If the union member took the PEP job, the city would modify the contract with the Department of Labor. Most of the upgrade opportunities became filled by union members who were already working for the city.

A second but initially less significant union concern was the use of seniority in future layoffs. The basis of the union's position was set forth in the agreement:

> In the case of reduction in force, or elimination, of a position, seniority within the bargaining unit shall govern. Layoffs shall begin with those employees having the least seniority. Employees shall be recalled according to seniority in the inverse order of lay-off. (Art. VI, Sec. 3)

Because the city refused to guarantee the union that its members would be granted seniority rights over all PEP participants, regardless of when the latter were hired, the union envisioned situations where the city would violate this seniority provision.

The Fire Fighters

The city's encounter with the fire fighters' union over PEP involved issues different from those with AFSCME but similar to those raised by the fire fighters in PSC. While the PSC controversy involved only two or three slots, 15 or 20 permanent slots were at stake in the PEP case. The city claims that the fire fighters and the police unions did not respond to the initial invitation to comment on the city application for PEP funds. The police never raised any objections, and the fire fighters indicated verbal approval of PEP initially. But the fire fighters registered opposition in early January 1972. There were two meetings between the city and representatives of the fire fighters.

Basically, two aspects of PEP gave rise to the dispute between the city and the fire fighters. First, the union expressed fear that PEP participants were below the caliber of a long list of eligibles to be hired under normal procedures, but the union failed to provide specific examples. The union, however, conceded that historically the Safety Commissioner would waive the rules to have people he wanted, and that it was extremely difficult to flunk the test. Second, union representatives argued that the city's hiring of PEP fire fighters violated the guidelines of PEP because the city was not creating new jobs -- it was merely filling slots that would have to be filled even in the absence of PEP. The union claims that it acceded to the city's demands because it did not want to contaminate an already difficult collective bargaining session which lasted from January to July, 1972.

Permanent vs. Temporary Job Titles

By early 1972 the city had received a total of $1,306,000 in PEP funds to fill 264 permanent and temporary job slots. Permanent job titles are approved by City Council and covered in the city budget. Of the 68 jobs classified under permanent titles, all were subject to union collective bargaining and 60 were entry-level positions.

There are two types of temporary job titles: (1)seasonal work, such as playground help during summer months, cannot be organized by the union, although the city has agreed to hire personnel under a "covered classification" which is recognized as unionized and (2) job titles created especially for PEP, a program due to expire in two years.

The city created some temporary job titles under PEP. These were positions which City Council had never budgeted and for which there were [illegible] existing job classifications. They included such titles as Personnel Assistant, Drug Researcher and Information Billing Clerk. Under federal guidelines, a union member could not bid for these jobs unless he was unemployed.

In theory, the union could organize and collect dues from any job holders who fell under the jurisdiction of the union's appropriate bargaining unit, and the city distributed union cards to all permanent and temporary job holders in this category. On the other hand, the city created many job classifications outside the bargaining unit. The union did not object to the creation of new titles in temporary jobs, maintaining that since the positions were dependent on temporary federal funds they were inconsequential to the union's long-range interests.

Furthermore, many positions were not subject to the union's right to organize because the slots were created in city government agencies, such as Model Cities and the Housing Authority, which the union had not been able to organize. Between the new categories and the outside categories, some 60 percent of the 203 temporary jobs were removed from the union's jurisdiction. Hence the temporary positions were of far less interest to the union than the permanent and the upgrade slots.

The city believed that the union got everything that it bargained for and did well considering the limitations imposed on the city by Department of Labor guidelines. The administration noted that, of 40 permanent jobs that are unionized, 25 were filled by upgrading while 15 went to PEP participants. By unfreezing many permanent jobs to meet union demands the city reported that it incurred increased costs of $30,000 to $40,000 during the PEP program's first year of operation.

Of all PEP jobs, only 40 percent are permanent. The legislation and guidelines of PEP state that at the end of two years, the city must rehire at least half of all PEP employees. City officials expressed confidence that they would be able to absorb 10 percent more than the present amount of PEP employees who are working on a permanent basis. The city may be aided by passage of a comprehensive manpower act and revenue sharing measures. City officials believed that although adjustments would have to be made as new problems arose, its agreement with the union would be likely to stay in force during any extensions of the program.

Summary

The city's major problems with the unions in the implementation of PEP emerged against a backdrop of three independent events.

First, in July 1970 the city was awarded funds to establish a pilot Public Service Career training program. Local 320 of AFSCME objected to the PSC program because its members could not receive skills training and fill slots which the union considered as upgrade jobs. After six months of negotiating, the city agreed to give union members the first option on the upgrade slots originally intended for the unemployed.

Second, because of an unexpected $700,000 deficit, the mayor ordered a citywide job freeze in June 1971. The city was therefore anxious to fill some of these jobs with PEP funds.

The third factor pre-dating PEP was a study by the National Civil Service League which found the city deficient in minority hiring and upgrading practices. In April 1971 the city established new rules and regulations to facilitate the hiring of minorities. When PEP funds were made available, the city stressed the hiring of minority disadvantaged people.

The basic issue of contention between AFSCME and the city in the PEP program was the same one they faced with the PSC program. The union argued that its members should have the right to bid first on the upgrade slots and that these better paying jobs should not be reserved for PEP participants.

Ultimately the city granted union members the right to bid on all upgrade positions. Because public attention surrounded the dispute and because union leaders encouraged members to bid on these better jobs, PEP participants were relegated to the poorer jobs covered by the contract. Of course, not all jobs under PEP come under the jurisdiction of the collective bargaining agreement, and thus PEP participants were employed in some upgrade jobs.

The AFSCME-city dispute over the implementation of PEP was exacerbated because of the shifting guidelines issued by the Department of Labor. The original guidelines stipulated that cities were to request initially only 20 percent of their total funds. Although the union registered its original complaint about jobs covered by the 20 percent allocation, the city felt it had adequate lead time to iron out the difficulties before the date of the full funding. In the latter part of August 1971, the DOL ordered all cities to submit for full funding by early September. Both the union and the city were pressured in a short span of time to reach a compromise. When the union threatened to strike if its members were denied access to upgrade slots, the DOL refused to approve the city's PEP proposal. Almost overnight, the city capitulated because it did not want to impede the implementation of PEP.